ELIAS LAW GROUP

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February 4, 2026

Heather Davis
Chief Clerk of Court
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207

Re: Petitioners' Letter Re Jurisdiction in *Williams, et al. v. Board of Elections, et al.*, Court of Appeals Docket: APL-2026-00010

Dear Ms. Davis:

The Court has provided the parties an opportunity to address whether it has jurisdiction over this direct appeal. *See* January 29, 2026 Letter & Enclosure. The Court has specifically inquired as to three discrete issues: (1) whether simultaneous appeals lie in this Court and the Appellate Division; (2) whether the order below finally determines the action within the meaning of the Constitution; and (3) whether the only issue involved is the constitutional validity of a statute, as set forth in CPRL § 5601(b)(2). *See id.* The Appellants badly fail to satisfy each of these requirements, providing three independently sufficient bases for immediate dismissal.[1]

1. This Court has reiterated in a host of dismissal orders that "simultaneous appeals do not lie to both the Appellate Division and the Court of Appeals." *DeGraff v. Colontonio*, 39 N.Y.3d 1150, (2023) (citing *Parker v. Rogerson*, 35 N.Y.2d 751, 753 (1974)); *see also* n.3 (collecting cases). This rule acts as a total bar on Appellants' present appeal in this Court. *E.g.*, *Moody v. Sorokina*, 9 N.Y.3d 986 (2007).[2] Petitioners are aware of a single exception to this rule, *see Defler Corp. v. Kleeman*, 18 N.Y.2d 797 (1966), but it clearly does not apply here. Appellants' choice to proceed in two appellate courts simultaneously has caused unnecessary confusion and duplication. There is no prejudice to requiring Appellants to begin their appeal in the Appellate Division—which is consistent with what has occurred in a number of recent redistricting cases in New York.

[1] There are two sets of appellants in this appeal: (1) New York State Board of Elections Respondents Riley, Kosinski, and Casale ("Respondents"); and (2) Intervenor-Respondents Representative Malliotakis, Lai, Medina, Reeves, Sisto, and Togba ("Intervenors"). They are referred to collectively as "Appellants." Their respective memoranda of law in support of their motions for stay are cited as "Resps.' MOL" and "Ints.' MOL" throughout.

[2] This Court has indicated Appellants may preserve an appeal in this Court by stipulating to dismissal of their appeal in the Appellate Division. *See Moody*, 9 N.Y.3d at 986. Appellants are free to do so, but that would not cure the remaining deficiencies with their appeal here.

2. As to finality, the order below is not final on its face, as further reflected by the Appellants' own Informational Statements. Nor is it final in any practical sense—critical action remains necessary in Supreme Court to afford Petitioners complete relief, including resolution of their now pending motion to the add the Independent Redistricting Commission (IRC) and its commissioners as parties below for remedial purposes. Further, because this case concerns only a single cause of action, the doctrine of implied severance is not applicable.

3. Nor does this appeal solely concern the constitutional validity of a statute. Appellants each foreground issues that have *nothing* to do with the validity of any statute. Most notably, each contends (as their lead arguments no less) that the proceedings below violated their due process rights. That argument is divorced from any argument regarding the validity of any statute. Similarly, their attacks on the putative remedy in this case—which has not even yet been issued—are distinct from Petitioners' challenge to the constitutionality of CD-11. Their arguments under the Fourteenth Amendment and Elections Clause in the U.S. Constitution are not directed towards any "statutory provision" whatsoever, CPLR § 5601(b)(2), but rather Supreme Court's ordered remedial process. Further, Appellants' motions each raise fact-bound questions on the equities that are unrelated to the validity of any statute and which this Court is ill-suited to resolve in the first instance.

Accordingly, for the reasons below—as well as the reasons already provided in Petitioners' January 27 letter to this Court, *see generally* Ex. A—Petitioners renew their request that this Court dismiss the appeal *sua sponte* for lack of jurisdiction.

I. Appellants may not seek dual review in the Court of Appeals and Appellate Division.

Appellants' choice to dual track their appeals is fundamentally improper. This Court has repeatedly held that "simultaneous appeals do not lie to both the Appellate Division and the Court of Appeals." *Bank of Am., N.A. v. Snyder*, 32 N.Y.3d 1012 (2018) (citing *Parker*, 35 N.Y.2d at 753). The Court has reiterated this same principle in a legion of dismissal orders.[3] The principle stems from *Parker*, in which this Court explained that "[d]ual reviews are generally not permitted." *Parker*, 35 N.Y.2d at 753; *accord Bertini v. Murray*, 289 N.Y. 352, 353 (1942) ("Appeals may not be taken to both courts.").

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[3] *E.g.*, *138-140 W. 32nd St. Assocs. LLC v. 138-140 W. 32nd St. Assocs.*, 44 N.Y.3d 1003 (2025); *DeGraff*, 39 N.Y.3d at 1150; *Bank of N.Y. v. Terrapin Indus.*, LLC, 37 N.Y.3d 1010 (2021); *Gulf Coast Bank & Tr. Co. v. Virgil Resort Funding Grp.*, Inc., 36 N.Y.3d 959, 161 N.E.3d 477 (2021); *Demetriades v. Royal Abstract Deferred, LLC*, 34 N.Y.3d 1089, 1090 (2020); *Cypress Grp. Holdings, Inc. v. Onex Corp.*, 33 N.Y.3d 1133 (2019); *Price v. Tunecore*, Inc., 31 N.Y.3d 1140 (2018); *Magen David of Union Square v. 3 W. 16th St., LLC*, 31 N.Y.3d 1132 (2018); *Aries Fin., LLC v. 12005 142nd St., LLC*, 31 N.Y.3d 925 (2018); *In re Dashawn W.*, 16 N.Y.3d 767 (2011); *Matter of Lula XX*, 88 N.Y.2d 1040 (1996); *Matter of Adoption of Jarrett*, 88 N.Y.2d 960, 670 N.E.2d 1343 (1996); *Danna Metro Heating Corp. v. Mobil Oil Corp.*, 85 N.Y.2d 921 (1995); *Fleitz v. Fleitz*, 85 N.Y.2d 889, 889 (1995); *G.W. White & Son, Inc. v. Gosier*, 84 N.Y.2d 1007 (1994); *Sutherland by Sutherland v. Cnty. of Nassau*, 76 N.Y.2d 1017 (1990); *DePaolo v. Wisoff*, 76 N.Y.2d 932 (1990); *Matter of Kane*, 73 N.Y.2d 986 (1989); *Basi v. Basi*, 74 N.Y.2d 825 (1989); *Kohler v. Bd. of Educ., S. Huntington Union Free Sch. Dist.*, 70 N.Y.2d 744 (1987).

The Court of Appeals has, to Petitioners' knowledge, identified only a single exception to this rule. Specifically, it has held that dual review is only permitted "in the unusual circumstances presented in *Defler Corp. v. Kleeman*, 18 N.Y.2d 797, 275 N.Y.S.2d 384, 221 N.E.2d 914." *Knudsen v. New Dorp Coal Corp.*, 20 N.Y.2d 875, 877 (1967). But dual review was only permitted there because different groups of appellants pursued distinct remedies in each court, making it "necessary to preserve equality of remedy to each of multiple appellants." *Id.*; *see also Defler*, 18 N.Y.2d at 798. Here, in contrast, both sets of Appellants have pursued identical relief in both this Court and the Appellate Division. *See* Appls. for Interim Relief, No. 2026-00384 (1st Dep't, App. Div.), Docs. 11, 13 (filing identical or near-identical motions in the Appellate Division). Moreover, there is no apparent reason why the Appellate Division is unable to afford Appellants the relief they seek.

Setting aside this clear bar, common sense also weighs against simultaneous appeals. In the rare instances where New York courts "have concurrent jurisdiction, 'the seemly administration of the law demands that their orders do not conflict.'" *Allen v. Fiedler*, 96 A.D.3d 1682, 1684 (4th Dep't 2012) (quoting *Matter of Lee,* 220 N.Y. 532, 539 (1917)). "Thus, 'it is well established that, when two courts have concurrent subject matter jurisdiction, once one has exercised jurisdiction in the matter, it should not be entertained by the other.'" *Id.* (quoting *Matter of Walsh*, 491 N.Y.S.2d 84 (Sur. Ct., Bronx Cnty. 1985)); *see also Colson v Pelgram*, 259 N.Y. 370, 375 (1932) (describing the undesirability of maintaining parallel actions in different courts).

In view of the foregoing, the appropriate course for Appellants was to seek relief first from this Court alone and then—once jurisdiction was found lacking, *see infra* §§ II, III—to proceed in the Appellate Division. Alternatively, Appellants were free to proceed first in the Appellate Division—where jurisdiction more clearly rests—and then proceed to this Court as appropriate. In seeking relief from two courts on the same issue all at the same time, Appellants have risked the "[un]seemly" prospect of conflicting orders, particularly since *both* this Court and the Appellate Division have ordered briefing on Appellants' stay motions. Given the jurisdictional cloud looming over this Court, prudence supports dismissing this appeal and permitting the proceedings in the Appellate Division to proceed in due course.

It bears emphasizing that the Appellants face no prejudice from proceeding in the Appellate Division. Election cases enjoy a calendar preference in New York and are thus resolved on significantly faster timelines than other litigation. *See* N.Y. Election Law § 17-216. In each of the significant redistricting cases brought in recent years, appeals have proceeded through the Appellate Division before reaching this Court. *See, e.g.*, *Clarke v. Town of Newburgh*, 237 A.D.3d 14 (2d Dep't 2025); *Hoffmann v. N.Y. State Indep. Redistricting Comm'n*, 217 A.D.3d 53 (3d Dep't 2023); *Nichols v. Hochul*, 212 A.D.3d 529, 531 (1st Dep't 2023); *Harkenrider v. Hochul*, 204 A.D.3d 1366 (4th Dep't 2022). There is no good reason the same should not occur here.

II. Supreme Court's order does not finally determine this redistricting case.

Supreme Court's order is a non-final, interlocutory order concluding that the current configuration of New York's Eleventh Congressional district is unlawful. *See* Ex. B ("Order").

The order set forth next steps for determining the proper relief in the case, namely by ordering that the IRC promptly reconvene to draw an appropriate remedial district addressing the unlawful vote dilution established by Petitioners. *See id.* at 18.

The Order is plainly not final within the meaning of the Constitution or the CPLR. *See* N.Y. Const. art. VI, § 3(b)(2); CPLR § 5601(b)(2). Appellate courts look to the trial court's characterization of its own order in determining whether it is final. *See Burke v. Crosson*, 85 N.Y.2d 10, 15 (1995) (crediting the fact that the Supreme Court's order was "facially nonfinal"); *cf. Shah v. 20 E. 64th St., LLC*, 198 A.D.3d 23, 34 (1st Dep't 2021) (finding it "evident" that the Supreme Court "intended that the judgment be final"). Here, Supreme Court was clear: it labeled its own Order as a "Non-Final Disposition" and explicitly stated that the "case shall not be deemed resolved until the successful implementation of a new Congressional Map complying with this order." Order at 18.

Appellants themselves concede the Order is not final. Their Informational Statements in the Appellate Division each concede that the "Stage" of this case is "Interlocutory." *See* Ex. C at 2; *see also* Ex. D at 2. Likewise, they each indicate that the "Paper Appealed From" is merely a "Decision" and "Order" rather than any kind of judgment or decree. *See id*. And in their earlier correspondence to this Court, the Intervenors also conceded that the Order "is labeled as a non-final disposition," Ex. E at 1, jurisdiction does not lie in the Court of Appeals, and "filing in the Appellate Division" is thus "their only option under the relevant procedural statutes," *id.* at 2.

Even from a purely practical perspective, the Order does not finally determine the action. An order is only final if it "disposes of all of the causes of action between the parties in the action or proceeding and leaves nothing for further judicial action apart from mere ministerial matters." *Burke*, 85 N.Y.2d at 15; *accord* Karger, *Powers of the NY Court of Appeals* § 3:3 (explaining an order is final if it grants "effective final judgment" or is an order "completely disposing of the particular action or special proceeding"). In contrast, an order remains interlocutory even "where the rights of the parties are settled but something remains to be done." *Shah*, 198 A.D.3d at 32–33 (quoting *Cambridge Val. Nat'l Bank v. Lynch*, 76 N.Y. 514, 516 (1879)); *accord* Karger, *Powers of the NY Court of Appeals* § 3:3 (explaining an "order is generally nonfinal . . . if it is not immediately effective or if further judicial or quasi-judicial action remains to be taken").

The Order below plainly does not "leave[] nothing" for further judicial action. *Burke*, 85 N.Y.2d at 15. Rather, a critical aspect of Petitioners' claim below was for the Court to "take actions necessary to order a valid plan for new congressional districts in New York that comports" with the Constitution. Pet. at 28. Such relief has not yet been implemented, which is why Supreme Court *retained* jurisdiction to ensure "the successful implementation of a new Congressional Map." Order at 18. In other words, while the Order addresses certain liability issues below, it has not yet fully resolved the matter of remedy. *Cf. Transaero, Inc. v. La Fuerza Aerea Boliviana,* 99 F.3d 538, 541 (2d Cir. 1996) (explaining that "[d]eterminations of liability that leave unresolved questions of remedy ordinarily are not final").

Supervising the process for drawing a new congressional map cannot be characterized as "ministerial." A ministerial duty is "an administrative act carried out in a prescribed manner not allowing for substantial personal discretion." *Kagan v. State*, 221 A.D.2d 7, 10 (1996) (citation

omitted). But the Court's ongoing supervision of the IRC's compliance with the Order is far from ministerial. By way of example, Petitioners have moved by Order to Show Cause in Supreme Court to add the IRC and its commissioners as necessary parties. *See* Ex. F. Supreme Court has not yet resolved that Order to Show Cause and doing so will plainly require exercise of the Court's judicial role, rather than execution of some ministerial act. *E.g.*, *Clegg v. Rounds*, 222 A.D.3d 112, 122 (3d Dep't 2023) ("Making a decision upon a motion of a party is a core function of a court."); *McGee v. Dunn*, 75 A.D.3d 624, 624 (2d Dep't 2010) (resolving motion for default is not a "ministerial duty"); *Tauz v. Allstate Ins. Co.*, 773 N.Y.S.2d 813, 816–17 (Nassau Dist. Ct. 2003) ("The submission of a motion does not impose upon the court a ministerial duty to grant the relief sought.")

The Court's supervision of the ongoing remedial process is very similar to other remedial procedures—like accountings or damages assessments—that have been held to preclude a finding of finality. *E.g.*, *Santander Consumer USA, Inc. v. Autorama Enters., Inc.*, 205 A.D.3d 1116, 1117 (3d Dep't 2022) ("Nonetheless, this order did not completely dispose of the conversion cause of action, as an inquest on damages is not merely ministerial."); *Burke*, 85 N.Y.2d at 17 (finding summary judgment order was "facially nonfinal" even "though all of the substantive issues between the parties were resolved" because matter of attorney's fees was still disputed); *Shah*, 198 A.D.3d at 32–33 (explaining a case remains interlocutory "when there is an accounting to be had, a question of damages to be ascertained, or a reference required to determine the amount of rent due" (quoting *Cambridge Val. Nat'l Bank*, 76 N.Y. at 516)).

The non-finality of the Order is further evidenced by the arguments the Appellants raise on appeal. *See also infra* § III (explaining many of these arguments do not concern the validity of a statute). For example, Appellants contend that Supreme Court has ordered the IRC to adopt a racially gerrymandered map as a remedy in this case. But the determination of whether a map is racially gerrymandered requires examination of the map itself. Here, IRC has not yet even *proposed* a remedial map, never mind adopted one or sent it to the Legislature for a vote, meaning the issue is not ripe. *See also Black Voters Matter Capacity Bldg. Inst., Inc. v. Byrd*, No. 2022-CA-666, 2023 WL 5695485, at *10–11 (Fla. Cir. Ct. Sep. 2, 2023) (rejecting racial gerrymander defense because "there [is] no specific district under which this Court could evaluate whether racial gerrymandering occurred" and proponents could not show "that any remedial district" would "necessarily" be a racial gerrymander), *rev'd on other grounds,* 375 So. 3d 335 (Fla. Dist. Ct. App. 2023). And, on a practical level, it means developments below may well shape or inform the arguments presented by Appellants. Their choice to raise issues not yet ripe for appeal further confirms the non-finality of the order below.

Lastly, Appellants may argue that the Court's liability determination can be implicitly severed from the ongoing remedial proceedings. *See Burke*, 85 N.Y.2d at 16 (describing the "checkered history" of the implicit severance doctrine). Any such argument is fundamentally flawed. That "very limited exception to the general rule of nonfinality" applies only to "an order that disposes of some but not all *of the causes of action asserted* in a litigation between parties." *Id.* (emphasis added). Here, Petitioners have asserted a *single* constitutional cause of action. Implied severance does not permit an appellant to "in effect divid[e] a single cause of action" simply because some aspects of that cause have been decided. *Id.* (quoting *Sontag v. Sontag*, 66

N.Y.2d 554, 555 (1986)); *see also Howard v. Pooler*, 184 A.D.3d 1160, 1163 (4th Dep't 2020) (concluding claim could not be divided between "substantive issues" and issue related to fees).

Implied severance further requires that any severed causes of action "not arise out of the same transaction or continuum of facts or out of the same legal relationship as the unresolved causes of action." *Burke*, 85 N.Y.2d at 16. The outstanding remedial aspects of Petitioners' sole claim indisputably arise from the same "continuum of facts" as the Court's liability determination. *See* Pet. at 26–28; *see also Shah*, 198 A.D.3d at 33 (rejecting implied severance argument because issues arose out of the same facts);[4] *1801 Sixth Ave., LLC v. Empire Zone Designation Bd.*, 95 A.D.3d 1493, 1495–96 (2012) (3d Dep't 2012) (dismissing appeal where "all of the causes of action arise out of the same underlying transaction").

In sum, the Constitution carefully prescribes this Court's jurisdiction and restricts direct appeals from trial courts to a narrow subset of *final* orders. "Appellants are never entitled, as matter of right, to have a judgment which is not final reviewed by the Court of Appeals before the entry of final judgment." *Macomber v. Sterling*, 230 A.D. 598, 600 (4th Dep't 1930); *accord* Karger, *Powers of the NY Court of Appeals* § 3:1 ("In general, no appeal as of right or motion for leave to appeal in a civil matter may be entertained by [the Court of Appeals] unless the judgment or order sought to be appealed from is a final determination."). Appellants have failed to meet this constitutional requirement and thus dismissal of the appeal is required for this reason alone.[5]

III. Appellants' stay motions raise numerous arguments unrelated to "the validity of a statutory provision."

The Constitution further restricts this Court's direct appeal jurisdiction to instances "where the *only* question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States." N.Y. Const. art. VI, § 3(b)(2) (emphasis added); *see also* CPLR § 5601(b)(2). This requirement is a "stringent" one. Karger, *Powers of the NY Court of Appeals* § 7:8. Thus, if an appeal makes it "necessary to pass upon some question *other than* the constitutionality of a statute . . . then the case is not properly before this court on direct appeal and the appeal must be dismissed." *Powers v. Porcelain Insulator Corp.*, 285 N.Y. 54, 57 (1941) (emphasis added). Dismissal is accordingly further required here because, while the Petition does challenge the current configuration of CD-11 on constitutional grounds, the Appellants also raise a litany of unrelated questions into their appeal.

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[4] *Shah* ultimately found *express* severance because trial court "intended that the judgment be final." 198 A.D.3d at 34. The exact opposite is the case here, where Supreme Court made very clear that it does not consider the Order to be a final judgment. *See* Order at 18.

[5] *E.g.*, *Shao Fen Chin v. St. Lukes Hosp. Ctr.*, 51 N.Y.2d 835, 385 (1980) (dismissing *sua sponte* an appeal to this Court "upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution"); *Matter of Nelson*, 52 N.Y.2d 827, 827 (1980) (same); *Bacon v. Bacon*, 42 N.Y.2d 1010, 1010 (1977) (same); *see also Figari v. New York Tel. Co.*, 32 A.D.2d 434, 440–41 (1st Dep't 1969) ("[T]he appeal is properly before this court and not the Court of Appeals because the order is non-final . . . .").

Due Process. Both Appellants and Intervenors-Appellants begin their stay motions with due process arguments that are divorced from "the validity of a statutory provision." N.Y. Const. art. VI, § 3(b)(2). According to them, the proceedings below violated due process because Supreme Court "sprang" a new test on them after trial, which they contend is "reversible error." Ints.' MOL at 26–27; *see also* Resps.' MOL at 23–24 (similar).

Setting aside that those arguments are wrong, it is indisputable that they have ***nothing*** to do with the validity of any state or federal statute. Rather, they assert a constitutional due process argument towards *the proceedings and Order below*. The Court's resolution of that due process argument will have no bearing whatsoever on the validity of any statute—it would speak exclusively to whether the Supreme Court issued a proper ruling as part of its judicial function.

The very case Appellants most heavily rely upon proves the point. In *Sineneng-Smith*, a criminal defendant challenged her conviction by arguing her conduct fell beyond the ambit of a statute. *See United States v. Sineneng-Smith*, 590 U.S. 371, 374 (2020). On appeal, the Ninth Circuit invited various amici to brief constitutional issues about the validity of the underlying statute that the defendant never raised. *See id.* at 374–75. The Ninth Circuit then held the underlying statute unconstitutional based on one of these grounds. *See id.* at 379. The U.S. Supreme Court ruled the Ninth Circuit's "takeover of the appeal" violated due process and accordingly remanded for reconsideration of the appeal "shorn of the overbreadth inquiry interjected by the appellate panel." *Id.* at 379–80. The point is clear: the Court's remedy for the supposed due process violation was ordering rehearing in the court below based on arguments the parties raised—the Court's holding did not implicate the validity of the underlying statute.

The same is true here. Appellants' due process arguments ultimately seek *procedural* relief—a determination that Supreme Court committed reversible error by (allegedly) accepting improperly raised arguments. But even if this Court has an opportunity in the future to hear argument on that theory, doing so will have no impact on any statute.

Equal Protection. Both Appellants and Intervenor-Appellants also argue that Supreme Court's remedial order violates the federal Equal Protection Clause because it is necessarily race-based but fails to satisfy strict scrutiny. *See* Resps.' MOL at 33–39; Ints.' MOL at 37–44.

Once more, even if this Court at some point in the future agrees with that argument—and it should not—doing so would have no bearing the validity of any statute. It would speak only to Supreme Court's *remedial order*, as Appellants' own arguments make clear. *See, e.g.*, Resps.' MOL at 33 (arguing "Supreme Court's *remedy*" fails strict scrutiny); *id.* at 34 (attacking the "racial basis of [the Supreme Court's] *remedy*); *id.* at 35 (deeming race the "Supreme Court's predominant consideration," but not directing this argument towards any statute); Ints.' MOL at 40 (arguing that the Supreme Court's "remedy . . . triggers and fails strict scrutiny review" under the U.S. Constitution, but failing to direct this argument towards the validity of any statute).

To wit, concluding that Supreme Court's remedial order is improper would say nothing about the validity of the current CD-11 map as embodied in statute. Nor would it say anything about the validity of New York's constitutional vote dilution provision (even assuming, *arguendo*,

that constitutional provision is a "statutory provision"). Appellants direct this argument solely towards Supreme Court's remedy, and not any statute.

Elections Clause. Intervenor-Appellants also contend that Supreme Court's order violated the Elections Clause of the U.S. Constitution because it supplants the Legislature's role in redistricting. *See* Ints. MOL at 44–48.

That argument—as severely flawed as it is—*again* is concerned solely with the propriety of Supreme Court's ruling and *not* the validity of any statute. Indeed, that entire argument is rooted in the notion that Supreme Court *misconstrued* the Constitution's vote dilution provisions—not that the provision (which, again, is not "statutory") is invalid. Accepting this argument would not impact the validity of any law—it would only require remand for Supreme Court to adopt and apply a different interpretation of New York law.

Irreparable Harm. Both Appellants and Intervenor-Appellants also root their requests for a stay on claims of irreparable harm and other equitable considerations. *E.g.*, Resps.' MOL at 2, 39–43; Ints.' MOL at 4, 49–53. The Court's review of these equitable considerations likewise has no bearing on the validity of any statute.

This Court is principally concerned with questions of law. *See also Hunt v. Bankers & Shippers Ins. Co. of N.Y.*, 50 N.Y.2d 938, 940 (1980) ("Our appellate jurisdiction is ordinarily limited to consideration of issues of law; we have no authority in this instance to review questions of fact."). Appellants' effort to thrust fact-bound questions of irreparable harm and the equities before this Court—matters that were not even before Supreme Court —simply highlights how far afield their motions are from the limits of this Court's jurisdiction.

Timing of Relief. Relatedly, Appellants—in an effort to logjam any effective relief before the 2026 midterm elections—contend that it is simply too late for the IRC to enact a new map in time for the June 23 primary elections. *See* Ints.' MOL at 49–50; Resps.' MOL at 39–40. That argument, too, is wrong—this Court in *Harkenrider* ensured that relief was granted and put into effect even where the trial court only first found New York's congressional map unlawful on *March 31* of an election year. *See Harkenrider v. Hochul*, 38 N.Y.3d 494 (2022) (issued April 27, 2022). This case is substantially more advanced.

In any event, the Court now has before arguments regarding the feasibility of enacting a new map. The pending motions for a stay ask the Court to weigh the relative merits of these competing views about New York's election calendar. That, too, has nothing to do with the validity of any statute and is not within this Court's usual scope.

* * *

At bottom, Appellants' stratagem of pursing simultaneous appeals is improper. This Court has a near absolute bar on such dual appeals. Further still, the order below is facially non-valid and non-ministerial proceedings remain before Supreme Court on Petitioners' sole claim. And, lastly, *most* of the arguments Appellants raise before this Court do not have anything to do with the

validity of a state or federal statute. Indeed, many of their critiques are rooted in the federal constitution—yet directed towards no statute—as Appellants have made no secret of their eagerness to hurry this case to the U.S. Supreme Court and to avoid any final adjudication in New York's courts. *See, e.g.*, Ex. E at 2. For the same reason, however, jurisdiction is not proper in this Court on direct appeal. *See Powers*, 285 N.Y. at 57. Petitioners respectfully request that the Court dismiss this appeal for any and all of these reasons.

Respectfully submitted,

ARIA C. BRANCH
PARTNER

CHRISTOPHER D. DODGE (NY 5245907)
COUNSEL

Counsel for Petitioners

cc: All counsel (via email)

Exhibit A

ELIAS LAW GROUP

250 Massachusetts Ave NW, Suite 400 | Washington, DC 20001

January 27, 2026

Heather Davis
Chief Clerk of Court
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207

Re: *Williams, et al. v. Board of Elections, et al.*, New York County Index No. 164002/2025

Dear Ms. Davis:

Our firm represents Petitioners Michael Williams, José Ramírez-Garofalo, Aixa Torres, and Melissa Carty in this matter. On January 21, 2026, the Supreme Court, Civil Branch, New York County (Pearlman, J.) issued a non-final, interlocutory order concluding that the current configuration of New York's Eleventh Congressional district is unlawful. *See* Ex. A ("Order"). The order set forth next steps for determining the proper relief in the case, namely by ordering that the New York State Independent Redistricting Commission ("IRC") reconvene to draw an appropriate remedial district addressing the unlawful vote dilution established by Petitioners. *See* Order at 18. The order gave the IRC until February 6, 2026, to complete a new map. *See id.*

On January 26, 2026, New York State Board of Elections Respondents Peter S. Kosinski, Anthony J. Casale, Raymond J. Riley, III, and Intervenor-Respondents Nicole Malliotakis, Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba ("Intervenors") in this matter filed two notices of appeal apiece: one in this Court and another in the Appellate Division, First Department. *See* Exs. B–E. The Intervenors also sent a letter to this Court purporting to explain their anomalous choice to simultaneously appeal the Order in two different courts. *See* Ex. F. Their letter suggests that jurisdiction *might* be proper in this Court under CPLR 5601(b)(2), which permits an appeal "to the court of appeals as of right . . . from a judgment of a court of record of original instance *which finally determines an action* where the only question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States." CPLR 5601(b)(2) (emphasis added); *see also* Ex. F. The Respondents, for their part, offered no explanation for this most unconventional tactic. *See generally* Docs. 236, 249, 253, 257 (informational sheets).

More oddly still, Intervenors themselves concede that, because the Order "is labeled as a non-final disposition," Ex. F. at 1, jurisdiction does not lie in this Court, and "filing in the Appellate Division" is thus "their only option under the relevant procedural statutes," *id.* at 2. Even so, Intervenors maintain it is (somehow) unclear whether the Order, "a non-final disposition," "finally

determines [the] action" within the meaning of CPRL 5601(b)(2). *Id.* at 1. And they suggest they filed a notice of appeal in this Court "[g]iven the uncertainty on these matters" and in case this Court believes "that it has jurisdiction for a direct appeal." *Id.* at 1–2.

Contrary to Intervenors' letter, there is no "uncertainty" here—the Order is obviously non-final and thus no direct appeal can be taken to this Court as of right, as both this Court and the Appellate Division have often explained. *E.g.*, *Shao Fen Chin v. St. Lukes Hosp. Ctr.*, 51 N.Y.2d 835, 835 (1980) (dismissing *sua sponte* an appeal to this Court "upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution (citing CPLR § 5601(b)(2)); *Matter of Nelson*, 52 N.Y.2d 827, 827 (1980) (same); *Bacon v. Bacon*, 42 N.Y.2d 1010, 1010 (1977) (same); *see also Figari v. New York Tel. Co.*, 32 A.D.2d 434, 440 (1st Dep't 1969) ("[T]he appeal is properly before this court and not the Court of Appeals because the order is non-final . . . ." (citing CPLR § 5601(b)(2)).

This finality requirement for a direct appeal to the Court of Appeals is no mere procedural nicety—it is jurisdictional and grounded in the New York Constitution, which "limit[s]" this Court's jurisdiction to hear direct civil appeals to certain decisions from the Appellate Division, as well orders from other courts "which finally determine[] an action or special proceedings . . . ." N.Y. Const. art. VI, § 3(b)(2). "Appellants are never entitled, as matter of right, to have a judgment which is not final reviewed by the Court of Appeals before the entry of final judgment." *Macomber v. Sterling*, 230 A.D. 598, 600 (App. Div. 1930); *accord* Arthur Karger, *Powers of the NY Court of Appeals* § 3:1 ("In general, no appeal as of right or motion for leave to appeal in a civil matter may be entertained by [the Court of Appeals] unless the judgment or order sought to be appealed from is a final determination.").

Here, the Respondents and Intervenors effectively concede the non-finality of the Order. The informational statements attached to their notices of appeal in the Appellate Division each characterize the appeal as "interlocutory" rather than "final" or "post-final," and they further identify the Order as a "Decision" rather than a "Judgment." *See* Docs. 236, 249, 253, 257. That is consistent with the Order itself, which says "this case shall not be deemed resolved until the successful implementation of a new Congressional Map complying with this order." Order at 18 (further labelling the Order a "Non-Final Disposition"). Tellingly, Respondents and Intervenors offer no justification for how jurisdiction can exist in this Court given their own characterizations of their appeals and the Supreme Court's clear statement.

Nor do they explain how the Order is one that "finally determines [the] action." CPLR 5601(b)(2). An order is only final if it "disposes of all of the causes of action between the parties in the action or proceeding and leaves nothing for further judicial action apart from mere ministerial matters." *Burke v. Crosson*, 85 N.Y.2d 10, 15 (1995); *accord* Karger, *Powers of the NY Court of Appeals* § 3:3 (explaining an order is final if it grants "effective final judgment" or is an order "completely disposing of the particular action or special proceeding"). In contrast, an order remains interlocutory even "where the rights of the parties are settled but something remains to be done." *Shah v. 20 E. 64th St., LLC*, 198 A.D.3d 23, 32–33 (1st Dep't 2021) (quoting *Cambridge Val. Nat'l Bank v. Lynch*, 76 N.Y. 514, 516 (1879)); *accord* Karger, *Powers of the NY Court of Appeals* § 3:3 (explaining an "order is generally nonfinal . . . if it is not immediately effective or if further judicial or quasi-judicial action remains to be taken").

The Order below plainly does not "leave[] nothing" for further judicial action, which is why the Supreme Court *retained* jurisdiction to ensure "the successful implementation of a new Congressional Map." Order at 18. Nor can supervising the process for drawing a new congressional map be characterized as "ministerial." A ministerial duty is "an administrative act carried out in a prescribed manner not allowing for substantial personal discretion." *Kagan v. State*, 221 A.D.2d 7, 10 (2d Dep't 1996) (citation omitted). But the Court's ongoing supervision of the IRC's compliance with the Order is far from ministerial. Indeed, the Court's supervision of the remedial process is very similar to other remedial procedures—like accountings or damages assessments—that have been held to preclude a finding of finality. *E.g.*, *Santander Consumer USA, Inc. v. Autorama Enters., Inc.*, 205 A.D.3d 1116, 1117 (3d Dep't 2022) ("Nonetheless, this order did not completely dispose of the conversion cause of action, as an inquest on damages is not merely ministerial."); *Burke*, 85 N.Y.2d at 17 (finding summary judgment order was "facially non-final" even "though all of the substantive issues between the parties were resolved" because the matter of attorneys' fees was still disputed); *Shah*, 198 A.D.3d at 32–33 (explaining a case remains interlocutory "when there is an accounting to be had, a question of damages to be ascertained, or a reference required to determine the amount of rent due" (quoting *Cambridge Val. Nat'l Bank*, 76 N.Y. at 516)).

The non-finality of the Order can further be seen in Intervenors' own informational statement, which contends that the Order "violates the Equal Protection Clause aof [sic] the Fourteenth Amendment to The [sic] U.S. Constitution." Doc. 253 at 4. That issue is presently unripe for appeal because it turns on Intervenors' argument that the remedial district ultimately drawn by the IRC and/or enacted by the Legislature at the conclusion of this case will be a racial gerrymander. *See* Doc. 208 at 59 (explaining why Intervenors' racial gerrymandering affirmative defense is premature); *see also Black Voters Matter Capacity Bldg. Inst., Inc. v. Byrd*, No. 2022-CA-666, 2023 WL 5695485, at *10–11 (Fla. Cir. Ct. Sep. 02, 2023) (rejecting racial gerrymander defense because "there [is] no specific district under which this Court could evaluate whether racial gerrymandering occurred" and proponents could not show "that any remedial district" would "necessarily" be a racial gerrymander), *rev'd on other grounds,* 375 So. 3d 335 (Fla. Dist. Ct. App. 2023). In their haste to reach this Court, Intervenors press issues on appeal that have not yet fully been resolved at the trial level, proving the wisdom of this Court's finality rule.

At bottom, this case is about whether an existing New York congressional district was unlawfully constituted, and what sort of a remedial district must be drawn to redress that harm. *See* Doc. 1 at 27–28 (seeking declaratory and injunctive relief against the current CD-11, but also "actions necessary to order a valid plan for new congressional districts"). To date, trial proceedings have resolved just one of those questions, though resolution of the second is well underway: as explained, the Supreme Court has ordered that the IRC draw a new map by February 6, 2026. Accordingly, Respondents' and Intervenors' only option for an interlocutory appeal is to the Appellate Division, First Department. *See* CPLR 5701(a). Petitioners therefore ask the Court to dismiss this appeal *sua sponte*, but also reserve the right to more fully address this jurisdictional deficiency in any formal briefing before the Court.

Very truly yours,

ARIA C. BRANCH
PARTNER

CHRISTOPHER D. DODGE (NY 5245907)
COUNSEL

cc: All counsel (via NYSCEF)

Exhibit B

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JEFFREY H. PEARLMAN **PART** 44M

Justice

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MICHAEL WILLIAMS, JOSE RAMIREZ-GAROFALO, AIXA TORRES, MELISSA CARTY,

Petitioner,

- v -

BOARD OF ELECTIONS OF THE STATE OF NEW YORK, KRISTEN ZEBROWSKI STAVISKY, RAYMOND J. RILEY, PETER S. KOSINSKI, HENRY T. BERGER, ANTHONY J. CASALE, ESSMA BAGNUOLA, KATHY HOCHUL, ANDREA STEWART-COUSINS, CARL E. HEASTIE, LETITIA JAMES,

Respondent.

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INDEX NO. 164002/2025

MOTION DATE 10/27/2025, 12/08/2025, 12/08/2025

MOTION SEQ. NO. 001 006 007

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 10, 52, 53, 56, 59, 60, 61, 62, 63, 95, 98, 142, 143, 144, 145, 154, 167, 168, 175, 186, 187

were read on this motion to/for MISCELLANEOUS.

The following e-filed documents, listed by NYSCEF document number (Motion 006) 97, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 128, 130, 146, 147, 148, 149, 155, 157, 159, 160, 161, 169, 170, 188, 189

were read on this motion to/for DISMISS.

The following e-filed documents, listed by NYSCEF document number (Motion 007) 116, 117, 118, 119, 120, 121, 122, 129, 131, 150, 151, 152, 153, 156, 158, 171, 172, 173, 174, 176, 190, 191

were read on this motion to/for DISMISSAL.

This election case was heard on an expedited basis, beginning with a hearing on November 7, 2025. The parties submitted briefings on the motions addressed in this Order, including reply memoranda, as well as exhibits including reports from expert witnesses. Additional briefing was provided by Amici Curiae. A trial was held from January 5, 2026 through January 8, 2026, during which Petitioners and Respondents were provided with equal

time to make their cases. After the completion of trial, parties provided additional briefing regarding the remedy in this case, as well as post-trial memoranda.

Background

On October 24, 2025, Petitioner Michael Williams, an elector of the state of New York, residing in Richmond County, Petitioner José Ramírez-Garofalo, an elector of the state of New York, residing in Richmond County, Petitioner Aixa Torres, an elector of the state of New York, residing in New York County, and Melissa Carty, an elector of the state of New York, residing in New York County (Collectively, "Petitioners"), filed a petition pursuant to Article III, Sections 4 and 5 of the New York Constitution, Unconsolidated Laws § 4221 (L 1911, ch. 773, § 1), and Civil Practice Law and Rules 3001, requesting: (1) that the Court declare "that the 2024 Congressional Map violates Article III, Section 4(c)(1) of the New York Constitution by unlawfully diluting the votes of Black and Latino voters in CD-11;" (2) "Pursuant to Art. III, Section 5 of the New York Constitution, ordering the Legislature to adopt a valid congressional redistricting plan in which Staten Island is paired with voters in lower Manhattan to create a minority influence district in CD-11 that complies with traditional redistricting criteria;" (3) that the Court issue "a permanent injunction enjoining [Respondents] and their agents and successors in office, from enforcing or giving any effect to the boundaries of the congressional districts as drawn in the 2024 Congressional Map, including an injunction barring [Respondents] from conducting any further congressional elections under the current map;" and (4) that the Court "[hold] hearings, [consider] briefing and evidence, and otherwise tak[e] actions necessary to order a valid plan for new congressional districts in New York that comports with Article III, Section 4(c)(1) of the New York Constitution." *NYSCEF Doc. No. 2*. On December 8, 2025 Intervenor-Respondents Congresswoman Nicole Malliotakis' and Individual Voters Edward L. Lai, Joel Medina, Solomon

B. Reeves, Angela Sisto, and Faith Togba ("Intervenor-Respondents") filed a Cross-Motion, seeking to dismiss this matter. *NYSCEF Doc. No. 97.*

On December 8, 2025, Respondents Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York ("BOE"), Anthony J. Casale, in his official capacity as a Commissioner of the BOE, and Raymond J. Riley, III ("BOE Respondents", in his official capacity as Co-Executive Director of the BOE filed an additional Cross-Motion, also seeking dismissal. *NYSCEF Doc. No. 116.*

Article III § 4(c) of the New York State Constitution governs redistricting of the state legislative districts and congressional districts, "[s]ubject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements." Article III § 4(c)(1) states:

> When drawing district lines, the commission shall consider whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights. Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.

This case arises out of and relates to Petitioners' claim that that in New York's 11th Congressional District ("CD-11"), "Black and Latino Staten Islanders have less opportunity than other members of the electorate to elect a representative of their choice and influence elections… in violation of the prohibition against racial vote dilution in Article III, Section 4(c)(1) of the New York Constitution." *NYSCEF Doc. No. 1.* CD-11 contains the entirety of Staten Island and extends into a portion of southern Brooklyn, reflecting district boundaries that have existed since 1980. *Pet. Exh. C., NYSCEF Doc. No. 62.* In the same period, the racial demographics have shifted drastically, from "85.3 percent white, 7 percent Black, 5.4 percent Latino, and 1.9 percent Asian"

to "56.6 percent white, 19.5 percent Latino,…9 percent Black," and 12 percent Asian, with "[t]he remaining 2.9 percent" largely comprised of "people who consider themselves members of two or more races." *NYSCEF Doc. No. 61*. Petitioners' proposed remedy would move the boundaries of CD-11, grouping Staten Island with a portion of southern Manhattan.

This is an issue of first impression; New York courts have yet to determine the appropriate legal standard to evaluate a vote dilution claim under Article III, Section 4 of the New York State Constitution. Petitioners assert that in evaluating this claim, the Court should utilize the vote dilution framework provided in the 2022 John R. Lewis New York Voting Rights Act ("NY VRA"). Intervenor-Respondents and BOE Respondents both argue that consideration of the NY VRA is impermissible under the state constitution and that the case should be dismissed as a result. *NYSCEF Docs. No 115, 122*. Respondents Kathy Hochul, in her official capacity as Governor of the State 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 the State of New York (collectively, "State Respondents"), for their part, claim that a "totality of the circumstances" standard is appropriate pursuant to the text of Article III Section 4(c)(1) but make no argument as to the result that would be reached under such a standard. *NYSCEF Doc. No. 95*.

Analysis

Article III, Section 4(c)(1) was part of a series of 2014 constitutional amendments regarding redistricting approved by the voters of New York State. As stated by State Respondents, it calls for a totality of the circumstances standard, reading in relevant part: "Districts shall be drawn so that, *based on the totality of the circumstances*, racial or minority language groups do

not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice." *New York State Constitution, Article III, Section 4(c)(1)* (Emphasis Added). The state constitution provides no guidance as to how to evaluate the totality of the circumstances, nor does the legislative history of the redistricting amendments. Petitioners point to the NY VRA, which bans vote dilution in local subdivisions based on the protections provided by Article III, Section 4, while providing detailed guidance on evaluating the totality of the circumstances. *NYSCEF Doc. No. 1*.

Utilizing the NY VRA, however convenient, is impermissible. Article III, Section 4 specifically states that the redistricting of congressional districts is "[s]ubject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements." Here, the text of the state constitution directly contradicts the notion that the Court can use the NY VRA, a state statute, to interpret a constitutional vote dilution claim. Not only was the NY VRA passed years after the redistricting amendments were ratified, the provision names "the federal constitution and statutes" and "state constitutional requirements," with no mention of state statutes. *Id.* That the phrase "the federal constitution" is paralleled "state constitutional requirements" while federal statutes receive no such mirror implies that state legislation was excluded on purpose and it should not be used to interpret Article III, Section 4. Moreover, there is no legislative history that provides any evidence that Article III, Section 4(c)(1) should be influenced by legislation that would be passed after the amendment took effect, even if that legislation is meant to bolster efforts against vote dilution.

That conclusion, however, does not end the inquiry, as Petitioners *are* correct in their assertion that the New York State Constitution provides greater protections against racial vote dilution than the federal constitution or the federal Voting Rights Act. That the protections of

Article III, Section 4 are broader than those provided by the federal constitution and federal statutes can be gleaned from the text itself and from case law regarding state legislation. Assertions that the federal Voting Rights Act controls simply do not hold up under a basic logical analysis. Article III, Section 4(c) says "[s]ubject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements," that under Section 4(c)(1), "[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." These provisions, taken in conjunction, simply imply that the protections provided by the redistricting amendments should not violate federal or state constitutional requirements or the state constitution, not that these protections cannot expand on those provided by the federal government. *See Harkenrider v. Hochul,* 38 N.Y.3d 494, 509 (2022) ("In construing the language of the Constitution as in construing the language of a statute, ... [we] look for the intention of the People and give to the language used its ordinary meaning"). Were the redistricting amendments simply meant to establish that the federal constitution and federal statutes should be used to protect voting rights in New York, the amendments would have no purpose. *See People v. Galindo,* 38 N.Y.3d 199, 205–206 (2022) (a statute should not be read in a way that "hold[s] it a legal nullity.") Moreover, under *People v. P.J. Video, Inc.*, "[i]f the language of the State Constitution differs from that of its Federal counterpart, then the court may conclude that there is a basis for a different interpretation of it." 68 N.Y.2d 296, 302 (1986). As pointed out by State Respondents, there are differences between the Voting Rights Act (52 U.S.C. § 10301(b)), which uses phrases referring to particularized groups including "a class of citizens" and "its members" and Article III, Section 4(c)(1), which protects the ability of "racial or minority groups [from having] less opportunity to participate in the political process than other members of the

electorate and to elect representatives of their choice." Here, the state's expansion on federal protections can be observed in language that literally expands on that included in the Voting Rights Act.

As a case of first impression, it falls on the Court to establish a standard for evaluating the totality of the circumstances. The Court notes that Article III, Section 4(c)(1) states "Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups *do not have less opportunity to participate* in the political process than other members of the electorate and to elect representatives of their choice" (emphasis added). This language is key, as it does not demand that a district suppress minority voters who could make up a majority under different lines in order to find that opportunity has been denied. Instead, it must be shown that the lines unfairly reduce their impact on electoral outcomes as drawn. While Article III, Section (4)(c) goes beyond the scope of the federal Voting Rights Act, the VRA is still instructive. As such, the Court turns to case law regarding the VRA to establish factors that can be evaluated in this analysis. In *Thornburg v. Gingles*, the United States Supreme Court utilized factors laid out by the United States Senate during the passage of the VRA to evaluate a vote dilution claim. 478 U.S. 30, 44-45. Those factors included "the extent to which voting in the elections of the State or political subdivision is racially polarized;…the exclusion of members of the minority group from candidate slating processes; the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process; the use of overt or subtle racial appeals in political campaigns; and the extent to which members of the minority group have been elected to public office in the jurisdiction." *Id.* This list is not intended to encompass the entirety of what factors should be considered in a vote dilution claim, nor is there any specific threshold that must be met to establish that a totality of the

circumstances has been met. *Id.* The Court elects to follow these principles in evaluating a vote dilution claim under Article III, Section 4(c)(1).

Fundamental to this claim is the extent of racially polarized voting in CD-11. As a racial vote dilution claim is predicated on the notion that minority voters cannot elect their candidate of choice, it is vital that Petitioners show that there is, in fact, a predominant choice among minority voters in a congressional district. Not only that, but it must also be demonstrated that White voters vote as a bloc that usually defeats minority-preferred candidates. *See Gingles* 478 U.S. at 56. Racially polarized voting must be observed as a pattern; a single election is not a sufficient basis to satisfy this portion of the claim. *Id.* This allows room for elections that break from the general pattern (such as a minority-preferred candidate winning or racially-polarized voting blocs breaking from one another) without reading these exceptions as negating said general pattern. *Id.* That voting is racially polarized can be proven through mere correlation between the race(s) of a voting bloc and need not rise to the level of causation. *Id.*

Here, racially polarized voting has been clearly demonstrated. Dr. Maxwell Palmer, an expert witness from New York University who testified in this case, showed in his report and shared on the record that across federal, state, and city elections from 2017 to 2024, Black voters in CD-11 voted together an average 90.5 percent of the time, while Latino voters voted together 87.7 percent of the time.[1] *NYSCEF Doc. No. 60.* Asian voters voted for the Black and Latino-preferred candidates 58.93 percent of the time, displaying less cohesion than Black or Latino voters but still demonstrating a consistent preference. *Id.* White voters, meanwhile, voted against the candidates preferred by Black and Latino 73.7 percent of the time. *Id.* Across the 20 most recent elections in CD-11 used in the analysis, the Black and Latino-preferred candidates won merely

[1] The Court notes that the expert witness' analysis does not include either state Assembly or state Senate races.

five (5) races. Respondents raised doubts as to the significance of this number on the record, asserting that roughly 30 percent of the population saw its preferred candidate win roughly 25 percent of the time. The Court does not read a racial vote dilution claim so simply. Vote dilution claims do not turn on whether minority-preferred candidates win elections at a rate that matches the relative population of minority groups in a district. A demonstration of racially polarized voting shows that the minority groups at issue vote as a bloc, as do White voters, and that the minority-preferred candidates "usually" lose. *See Gingles* 478 U.S. at 56. Petitioners have demonstrated that here.

Petitioners have also shown through testimony and by empirical data that the history of discrimination against minority voters in CD-11 still impacts those communities today. Staten Island has a long history of racial discrimination. Expert witness Dr. Thomas J. Sugrue reports that "Staten Island has a long history of racial segregation, discrimination, and disparate treatment against Blacks and Latinos." *NYSCEF Doc. No. 61.* Staten Island was the subject of intense redlining, a process in which the federal government enforced segregation by drawing race-based lines around different neighborhoods and ensured that Black people would not be allowed to obtain loans or mortgages. *Id.* This process largely confined Black people to neighborhoods north of the Staten Island Expressway with low property values and lowered the property values in areas where Black people resided, even majority-White neighborhoods. *Id.* These neighborhoods also had significant environmental hazards, leading to long-term health issues for residents over time. *Id.* Black and Latino people were often excluded from public housing in predominantly White neighborhoods and the real estate industry worked to keep them away from private property in White neighborhoods. *NYSCEF Doc. No. 61*. Even as racial protections were codified at a federal

level, Black and Latino Staten Islanders experienced harsh racial intimidation, violence, and hate-crimes. *Id.*

In the 1920s, New York state began requiring literacy tests to vote, a practice specifically designed to target immigrants and non-English speakers and prevent them from voting; this practice had a particularly negative impact on Black and Latino New Yorkers. *NYSCEF Doc. No. 61.* The long-term effects of this history has resulted in significant gaps in the lives of Black and Latino populations of Staten Island and the White population to this day, impacting "housing, education, [and] socioeconomic status…—all of which are known to have a negative impact on political participation and the ability to influence elections." *Id.* White Staten Islanders enjoy notably higher education rates than Black and Latino residents; "[m]ore than 1 in 5 Latinos and 1 out of 9 Blacks but only 1 in 14 Whites are not high school graduates" and "[a] little less than a quarter of Latinos and a little more than a quarter of Blacks, but more than one-third of Whites, have obtained at least a bachelors' degree." *Id.* White Staten Islanders have a per capita income of $52,273.00, Black Staten Islanders' per capita income is $31,647.00 and Latinos' is $30,748.00. *Id.* Moreover, where the White poverty rate on Staten Island is 6.8 percent, the Latino poverty rate is 16.3 percent, and the Black poverty rate is 24.6 percent. *NYSCEF Doc. No. 61.* Over 75 percent of White Staten Island residents own homes while only 43.7 percent of Latino residents, and 35.8 percent of Black residents do. *Id.* According to Dr. Sugrue's testimony on the record, de facto segregation remains the norm, with moderate segregation rates between Hispanic and White residents and significant segregation between Black and White residents.

The impact of discrimination is not only social and economic, political, as Black, Latino, and Asian Staten Islanders' political representation and participation in politics still lags behind White Staten Islanders. Expert witness Dr. Palmer's report analyzes voter turnout on Staten Island

the 2020, 2022, and 2024 elections, showing that while White voter turnout averaged 65.3 percent across those races, Black voter turnout averaged 48.7 percent, Latino turnout averaged 51.3 percent, and Asian turnout averaged 47.7 percent. *NYSCEF Doc. No. 60*. In the same years, the average voter turnout was 58.7 percent. The election of minority candidates in CD-11 presents more complexity, though representation still low.[2] Staten Island has elected a minority candidate to represent the district in Congress: Intervenor-Respondent Representative Nicole Malliotakis, became the first elected official of Latin American descent elected in Staten Island when she won a race for the New York State Assembly in 2010. *NYSCEF Doc. No. 61.* The first Black elected official in Staten Island, won a North Shore council race in 2009. *Id.*. Petitioners have shown that "minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process" to a noteworthy extent. *Gingles*, 478 U.S at 44-45.

Petitioners have additionally shown that both overt and subtle racial appeals are common in campaigns in CD-11. The Court lends this less relative weight than other factors given the prevalence of racial appeals in political campaigns across the country. However, as a part of the broader suite of factors considered in a totality of the circumstances analysis, it is still meaningful. Dr. Palmer's report provides strong examples of racial appeals in Staten Island politics. For instance, in the 1960s, there was strong opposition to minorities moving to the island, with one popular political cartoon decrying "ghetto areas" being delivered by Mayor John Lindsay. *NYSCEF Doc. No. 61*. In the 1990s, a movement advocating for the secession of Staten Island from New York City rose, driven in part by frustration at minority New Yorkers moving from other boroughs into public housing on Staten Island. *Id.* More recently, the first Black elected

[2] It is important to note that the election of minority candidates is distinct from the election of minority-preferred candidates. Here, the Court analyzes the former factor.

official on Staten Island was the subject of racially charged political attacks during her 2017 reelection campaign. *Id.* One Facebook page critical of her campaign accused her of supporting "a 'welfare hotel full of criminals and addicts' and turning a property into 'a heroin/methadone den.'" *Id.* This follows common trends linking Black candidates to negative stereotypes associated with Black people. *Id.*

Based on the facts presented by the expert witness reports and on the record, it is clear to the Court that the current district lines of CD-11 are a contributing factor in the lack of representation for minority voters. In state and local races, Staten Island is allowed be divided in a way that has enabled Black and Latino voters to show some political power, however insufficient. *See Sugrue Report, NYSCEF Doc. No.* 61. In the redistricting process, a county can only be broken up to draw congressional districts if that country has a population greater than the "ideal population size" for a district. *Cooper Report, NYSCEF Doc. No.* 62. Because "the ideal population size for a congressional district in New York is 776,971" and Staten Island's population is 495,747, "[Staten Island] must be joined with a neighboring portion of another New York City borough." *Id.* Under the historic makeup of CD-11, which links Staten Island to southern Brooklyn, however, Black and Latino voters, who are already affected by a history of discrimination in the political process, education, housing, and more, are essentially guaranteed to have their votes diluted. *Id; Sugrue Report, NYSCEF Doc. No. 61.*

In this case, a totality of the circumstances analysis indicates that as drawn, the district lines for CD-11 "result in the denial or abridgement of racial or language minority voting rights minority voters," particularly Black and Latino voters, violating Article III, Section 4(c)(1) of the New York State Constitution. Petitioners have shown strong evidence of racially polarized voting bloc (including preferences from Asian voters that align with Black and Latino voters, though the latter

two are the subject of Petitioners' arguments), they have demonstrated a history of discrimination that impacts current day political participation and representation, and they have shown that racial appeals are still made in political campaigns today. Taken together, these circumstances provide strong support for the claim that Black and Latino votes are being diluted in the current CD-11. Moreover, it is evident that without adding Black and Latino voters from elsewhere, those voters already affected by race discrimination will remain a diluted population indefinitely.

The Court must next determine, then, the proper remedy for unlawful vote dilution. Although Petitioners have shown a violation of the state constitution, their remedy must align with the law. Petitioners request that the Court mandate a new set of district lines for CD-11, shifting the boundaries from the entirety of Staten Island and a portion of Brooklyn to the entirety of Staten Island and a portion of Southern Manhattan; this map would redraw Congressional District 10 so that it would retain the Chinatown neighborhood and the portion of Brooklyn it currently holds while extending down into the portions of Southern Brooklyn currently contained in CD-11. *NYSCEF Doc. No. 62*.

To determine whether ordering a redrawing of the congressional lines is a proper remedy, Petitioners must first show that minority voters make up a sufficient portion of the district's population. Under *Gingles*, the minority group must be "sufficiently large and geographically compact to constitute a majority in a single-member district." 478 U.S. at 51. Because the New York State Constitution is more sweeping that the VRA, such a high bar need not be cleared under a vote dilution claim in this state. *See supra*. Still, minority voters must comprise a sufficiently large portion of the population of the district's voting population that they would be able to influence electoral outcomes. However, the Court can still find guidance from the federal jurisprudence. In *Bartlett v. Strickland*, the United States Supreme Court differentiated between

"majority-minority" districts, where minority voters make up a majority of the electorate and "crossover" districts, where "members of the majority help a 'large enough' minority to elect its candidate of choice."[3] 556 U.S. 1, 13 (2009); Cooper v. Harris, 581 U.S. 285, 303 (2017) (quoting Bartlett, 556 U.S. at 13). Nowhere in their papers do Petitioners assert that a majority-minority district can or should be drawn here; as such, the Court sees this as a crossover claim.

While crossover claims were rejected under the VRA in *Bartlett*, the Article III, Section 4(c)(1)'s language indicated that they are allowed in actions in the state of New York. In *LULAC v. Perry*, Justice David Souter proposed a bar for crossover claims as establishing a district where "minority voters . . . constitute a majority of those voting in the primary of the dominant party, that is, the party tending to win in the general election." 548 U.S. 399, 485-86 (2006) (Souter, J., concurring in part and dissenting in part). Based on this opinion, and on legal scholarship, Amici Professors Ruth M. Greenwood and Nicholas O. Stephanopoulos propose the following standard for a crossover claim: "a proposed district should count as a crossover district if minority voters (including from two or more racial or ethnic groups) are able to nominate candidates of their choice in the primary election and if these candidates are ultimately victorious in the general election." *NYSCEF Doc. No. 135*. Also in *LULAC,* Justice Stephen Breyer went a step beyond Justice Souter's proposed definition, arguing that a crossover claim should "show that minority voters in a reconstituted or putative district constitute a majority of those voting in the primary of the dominant party, that is, the party tending to win in the general election" (*LULAC*, 548 US at 485-86) (Breyer, J., dissenting in part). Based on Justice Breyer's opinion, Amici New York Civil Liberties Union, NAACP Legal Defense and Education Fund, Asian American Legal Defense and Education Fund, and Center for Law and Social Justice propose that the Court follow a similar

[3] A majority-minority district may come in the form of a simple majority or a "coalition" district, where multiple minority voting groups form a majority of voters. *Bartlett*, 556 U.S. 1, 13 (2009).

logic so that "crossover claims [are not] easily…distorted for partisan maximization." *NYSCEF Doc. No. 139*

The Court adopts a three-pronged standard for evaluating a proposed crossover district in a vote dilution case pursuant to Article III, Section 4(c)(1) of the New York State Constitution. First, a proposed district should count as a crossover district if minority voters (including from two or more ethnic groups) are able to select their candidates of choice in the primary election. Second, these candidates must usually be victorious in the general election. Third, the reconstituted district should also increase the influence of minority voters, such that they are decisive in the selection of candidates.

The Court emphasizes two aspects of this standard for clarity. First, the minority-preferred candidates must "usually" win the general election so that the standard for establishing a crossover district closely mirrors the standard for establishing vote dilution, which says that minority-preferred candidates must "usually" fail. *See Gingles* 478 U.S. at 56. "Usually be victorious" should only be interpreted to the extent that minority-preferred candidates win more often than not. Second, that prong three requires minority voters to be "decisive" in primary races so that crossover districts cannot be used to achieve vote dilution in favor of a different political party. As stated above, racial vote dilution claims should not be used for the purpose of simply bolstering a political party's power and influence. Otherwise, it would be relatively simple to use vote dilution claims to establish districts in which minority voters *do not* gain actual influence but *are* grouped with White voters who would elect minority-preferred candidates regardless of whether those minority voters were drawn into a new district or not.

While Petitioners offer new district lines for the Court to adopt, the New York State Constitution points the Court in a different direction. Under Article III, Section 5 of the New York

State Constitution, "the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities," should the Court find a congressional map invalid. In *Harkenrider v Hochul*, the New York State Court of Appeals found that, where the election calendar's start was imminent and the Independent Redistrict Commission ("IRC") process was in disarray, it was appropriate to appoint a special master to draw new congressional maps, as the redistricting plan was unconstitutional and "incapable of a legislative cure." 38 NY3d 494, 523 (2022). In *Hoffmann v New York State Ind. Redistricting Commn*, the Court of Appeals built on this, stating that "[c]ourt-drawn judicial districts are generally disfavored because redistricting is predominantly legislative." 41 NY3d 341, 361 (2023). Instead, the Court pointed to Article III, Section 5(b), which states that "at any other time a court orders that congressional or state legislative districts be amended, an independent redistricting commission shall be established to determine the district lines for congressional and state legislative offices." *Hoffman*, 41 NY3d 341, 360 (2023). Under a Court-ordered IRC redistricting process, the redrawing of the maps is considered "adopted by the IRC and legislature." *Id.*

As in *Harkenrider*, time is of the essence to fix congressional lines in this case. *Harkenrider v. Hochul,* 38 NY3d 494, 523. Respondent New York State Board of Elections has stated that to properly implement a new congressional map, a multiagency process including county boards, borough staff, central New York City staff, the New York City Department of Planning, and the Board itself, would need to be completed. *NYSCEF Doc. No. 204*. This includes the redrawing of election districts, which is a city-wide process, and requires as much time as possible before the election calendar begins on February 24, 2026. *Id.* Unlike *Harkenrider*, though, the IRC has not had the chance to redraw maps, meaning that constitutionally, they should receive an opportunity to do so. *Harkenrider*, 38 NY3d at 523. Therefore, in keeping with the precedent established

Hoffman, and following the requirements of Article III, Section 5(b) of the New York State Constitution, the proper remedy in this case is to reconvene the IRC to redraw the CD-11 map so that it comports with the standard described above. 41 NY3d 341, 360. Per the request of the Board of Elections, new congressional lines must be completed by February 6, 2026. The Court has considered Respondents additional arguments, including regarding the Elections clause and laches, and finds them unavailing.

(Intentionally Left Blank)

Based on the reasoning above, the parties' arguments on the record, and the documents submitted to the Court, it is hereby **ORDERED** that the configuration of New York State's 11th Congressional District under the 2024 Congressional Map is deemed unconstitutional under Article III, Section 4(c)(1) of the New York State Constitution; and it is further

ORDERED that Respondents are hereby enjoined from conducting any election thereunder or otherwise giving any effect to the boundaries of the map as drawn; and it is further

ORDERED that the Independent Redistricting Commission shall reconvene to complete a new Congressional Map in compliance with this Order by February 6, 2026; and it is further

ORDERED that this case shall not be deemed resolved until the successful implementation of a new Congressional Map complying with this order.

1/21/2026
DATE

HON. JEFFREY H. PEARLMAN J.S.C.
JEFFREY H. PEARLMAN, J.S.C.

CHECK ONE:		CASE DISPOSED		X	NON-FINAL DISPOSITION	
		GRANTED	DENIED	X	GRANTED IN PART	OTHER
APPLICATION:		SETTLE ORDER			SUBMIT ORDER	
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN			FIDUCIARY APPOINTMENT	REFERENCE

Exhibit C

Supreme Court of the State of New York
Appellate Division: First Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.

Michael Williams, et al.

- against -

Board of Elections of the State of New York, et al.

For Court of Original Instance

Date Notice of Appeal Filed

For Appellate Division

Case Type

- ☐ Civil Action
- ☐ CPLR article 75 Arbitration
- ■ CPLR article 78 Proceeding
- ☐ Special Proceeding Other
- ☐ Habeas Corpus Proceeding

Filing Type

- ■ Appeal
- ☐ Original Proceedings
  - ☐ CPLR Article 78
  - ☐ Eminent Domain
  - ☐ Labor Law 220 or 220-b
  - ☐ Public Officers Law § 36
  - ☐ Real Property Tax Law § 1278
- ☐ Transferred Proceeding
  - ☐ CPLR Article 78
  - ☐ Executive Law § 298
- ☐ CPLR 5704 Review

Nature of Suit: Check up to three of the following categories which best reflect the nature of the case.

☐ Administrative Review	☐ Business Relationships	☐ Commercial	☐ Contracts
☐ Declaratory Judgment	☐ Domestic Relations	■ Election Law	☐ Estate Matters
☐ Family Court	☐ Mortgage Foreclosure	■ Miscellaneous	☐ Prisoner Discipline & Parole
☐ Real Property (other than foreclosure)	☐ Statutory	☐ Taxation	☐ Torts

Appeal

Paper Appealed From (Check one only):	If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.

☐ Amended Decree	☐ Determination	■ Order	☐ Resettled Order
☐ Amended Judgement	☐ Finding	☐ Order & Judgment	☐ Ruling
☐ Amended Order	☐ Interlocutory Decree	☐ Partial Decree	☐ Other (specify):
■ Decision	☐ Interlocutory Judgment	☐ Resettled Decree	
☐ Decree	☐ Judgment	☐ Resettled Judgment	

Court: Supreme Court	County: New York
Dated: 01/21/2026	Entered:01/22/26
Judge (name in full):Jeffrey H. Pearlman	Index No.:164002/2025
Stage: ■ Interlocutory ☐ Final ☐ Post-Final	Trial: ■ Yes ☐ No If Yes: ☐ Jury ■ Non-Jury

Prior Unperfected Appeal and Related Case Information

Are any appeals arising in the same action or proceeding currently pending in the court? ☐ Yes ■ No
If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.

Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:

Original Proceeding

Commenced by: ☐ Order to Show Cause ☐ Notice of Petition ☐ Writ of Habeas Corpus	Date Filed:

Statute authorizing commencement of proceeding in the Appellate Division:

Proceeding Transferred Pursuant to CPLR 7804(g)

Court: Choose Court	County: Choose County
Judge (name in full):	Order of Transfer Date:

CPLR 5704 Review of Ex Parte Order:

Court: Choose Court	County: Choose County
Judge (name in full):	Dated:

Description of Appeal, Proceeding or Application and Statement of Issues

Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.

The appeal is from the Decision and Order of Hon. Jeffrey H. Pearlman (Supreme Court, New York County) dated January 21, 2026, and entered in the office of the Clerk of the Supreme Court of the State of New York, County of New York, on January 22, 2026. The relief requested was: (a) a declaration that the 2024 Congressional Map violates Article III, Section 4(c)(1) of the NY Constitution; (b) an order directing the Legislature to adopt a revised congressional redistricting map; (c) a permanent injunction enjoining Respondents from conducting congressional elections under the current map; (d) holding hearings and considering briefing and evidence. The relief was granted

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

The issues proposed to be raised on the appeal include, without limitation: (1) whether Supreme Court erred in finding that the 2024 Congressional Map violates Article III, Section 4(c)(1) of the New York State Constitution; (2) whether Supreme Court improperly established a new legal standard for evaluating vote dilution claims under the New York State Constitution; (3) whether Supreme Court erred in adopting a three-pronged standard for crossover districts under Article III, Section 4(c)(1); (4) whether Supreme Court's remedy ordering the Independent Redistricting Commission to reconvene and complete a new Congressional Map by February 6, 2026 was proper; and (5) whether Supreme Court erred in denying Respondents' Cross-Motion to dismiss. Appellants appeal from each and every part of the Decision and Order to which they have been aggrieved. The relief sought on appeal includes, inter alia, the reversal of the Decision and Order in its entirety and dismissal of Petitioners' proceeding.

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	Please see attached addendum for party information		
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Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: Nicholas J. Faso/ Cullen & Dykman LLP			
Address: 80 State Street, Suite 900			
City: Albany	State: NY	Zip: 12206	Telephone No: 518-788-9416
E-mail Address: nfaso@cullenllp.com			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 7-8, 10			
Attorney/Firm Name: Andrew G. Celli, Jr./ Emery Celli Brinckerhoff Abady Ward & Maazel LLP			
Address: One Rockefeller Plaza, 8th Floor			
City: New York	State: NY	Zip: 10020	Telephone No: (914) 427-3791
E-mail Address: ACELLI@ECBALAW.COM			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ☒ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 1-4			
Attorney/Firm Name: Aria Branch/ Elias Law Group LLP			
Address: 250 Massachusetts Avenue - Nw, Suite 400			
City: Washington	State: DC	Zip: 20001	Telephone No: (202) 968-4518
E-mail Address: abranch@elias.law			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ☒ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 1-4			
Attorney/Firm Name: Brian Lee Quail/ New York State Board of Elections			
Address: 40 North Pearl Street, Suite 5			
City: Albany	State: NY	Zip: 12207	Telephone No: (518) 474-6220
E-mail Address: brian.quail@elections.ny.gov			
Attorney Type: ☐ Retained ☐ Assigned ■ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 5-6, 9, 11			
Attorney/Firm Name: Seth J. Farber/ Office of the Attorney General of the State of New York			
Address: 28 Liberty Street, 17th Floor			
City: New York	State: NY	Zip: 10005	Telephone No: (212)416-8029
E-mail Address: seth.farber@ag.ny.gov			
Attorney Type: ☐ Retained ☐ Assigned ■ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 12-15			
Attorney/Firm Name: Misha Tseytlin/ Troutman Pepper Locke LLP			
Address: 875 Third Avenue			
City: New York	State: NY	Zip: 10022	Telephone No: (212) 704-6000
E-mail Address: misha.tseytlin@troutman.com			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 16-20			

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: Perry Maxwell Grossman/ New York Civil Liberties Union Foundation			
Address: 125 Broad Street, 19th Floor			
City: New York	State: NY	Zip: 10004	Telephone No: (212) 607-3347
E-mail Address: pgrossman@nyclu.org			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 22			
Attorney/Firm Name: Ruth Merewyn Greenwood/ Election Law Clinic, Harvard Law School			
Address: 6 Everett Street, Suite 4105			
City: Cambridge	State: MA	Zip: 02138	Telephone No: (202) 560-0590
E-mail Address: rgreenwood@law.harvard.edu			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 21			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			

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

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

Petitioners,

vs.

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.

ADDENDUM

Index No.: 164002/2025
Hon. Jeffrey H. Pearlman
Addendum

Supplemental Party Information

No.	Party Name	Original Status	Appellate Status
1	Michael Williams	Petitioner	Appellee-Petitioner
2	Jose Ramirez-Garofalo	Petitioner	Appellee-Petitioner
3	Aixa Torres	Petitioner	Appellee-Petitioner
4	Melissa Carty	Petitioner	Appellee-Petitioner
5	Board of Elections of the State of New York	Respondent	Appellee-Respondent
6	Kristen Zebrowski Stavisky in her official capacity as Co-Executive	Respondent	Appellee-Respondent

	Director of the Board of Elections of the State of New York		
7	Raymond J. Riley III in his official capacity as Co-Executive Director of the Board of Elections of the State of New York	Respondent	Appellant-Respondent
8	Peter S. Kosinski in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York	Respondent	Appellant-Respondent
9	Henry T. Berger in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York	Respondent	Appellee-Respondent
10	Anthony J. Casale in his official capacity as Commissioner of the Board of Elections of the State of New York	Respondent	Appellant-Respondent
11	Essma Bagnuola in her official capacity as Commissioner of the Board of Elections of the State of New York	Respondent	Appellee-Respondent
12	Kathy Hochul in her official capacity as Governor of New York	Respondent	Appellee-Respondent
13	Andrea Stewart-cousins in her official capacity as Senate Majority Leader and President Pro Tempore of the New York State Senate	Respondent	Appellee-Respondent
14	Carl E. Heastie in his official capacity as Speaker of the New York State Assembly	Respondent	Appellee-Respondent
15	Letitia James in her official capacity as Attorney General of New York	Respondent	Appellee-Respondent
16	Congresswomen Nicole Malliotakis	Intervenor	Intervenor
17	Edward L. Law	Intervenor	Intervenor
18	Solomon B. Reeves	Intervenor	Intervenor
19	Angela Sisto	Intervenor	Intervenor
20	Faith Togba	Intervenor	Intervenor
21	Nicholas O. Stephanopoulos	Intervenor	Intervenor
22	New York Civil Liberties Union Foundation	Intervenor	Intervenor

Dated: January 26, 2026
Albany, New York

CULLEN AND DYKMAN LLP

By: */s/ Nicholas J. Faso*

Nicholas J. Faso, Esq.
Christopher E. Buckey, Esq.
80 State Street, Suite 900
Albany, New York 12207
(518) 788-9440
nfaso@cullenllp.com
cbuckey@cullenllp.com

Attorneys for Respondents Raymond J. Riley III, Peter S. Kosinski, and Anthony J. Casale

Exhibit D

Supreme Court of the State of New York
Appellate Division: First Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.	For Court of Original Instance
Michael Williams; José Ramírez-Garofalo; Aixa Torres; and Melissa Carty - against - Board of Elections of the State of New York, et al.	Date Notice of Appeal Filed
	For Appellate Division

Case Type		Filing Type	
☐ Civil Action	☐ CPLR article 78 Proceeding	■ Appeal	☐ Transferred Proceeding
☐ CPLR article 75 Arbitration	■ Special Proceeding Other	☐ Original Proceedings	☐ CPLR Article 78
	☐ Habeas Corpus Proceeding	☐ CPLR Article 78	☐ Executive Law § 298
		☐ Eminent Domain	☐ CPLR 5704 Review
		☐ Labor Law 220 or 220-b	
		☐ Public Officers Law § 36	
		☐ Real Property Tax Law § 1278	

Nature of Suit: Check up to three of the following categories which best reflect the nature of the case.

☐ Administrative Review	☐ Business Relationships	☐ Commercial	☐ Contracts
☐ Declaratory Judgment	☐ Domestic Relations	■ Election Law	☐ Estate Matters
☐ Family Court	☐ Mortgage Foreclosure	☐ Miscellaneous	☐ Prisoner Discipline & Parole
☐ Real Property (other than foreclosure)	☐ Statutory	☐ Taxation	☐ Torts

Appeal

Paper Appealed From (Check one only):

If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.

☐ Amended Decree	☐ Determination	■ Order	☐ Resettled Order
☐ Amended Judgement	☐ Finding	☐ Order & Judgment	☐ Ruling
☐ Amended Order	☐ Interlocutory Decree	☐ Partial Decree	☐ Other (specify):
■ Decision	☐ Interlocutory Judgment	☐ Resettled Decree	
☐ Decree	☐ Judgment	☐ Resettled Judgment	

Court: Supreme Court	County: New York
Dated: 01/21/2026	Entered: 1/22/2026
Judge (name in full): Jeffrey H. Pearlman	Index No.: 164002/2025
Stage: ■ Interlocutory ☐ Final ☐ Post-Final	Trial: ■ Yes ☐ No If Yes: ☐ Jury ■ Non-Jury

Prior Unperfected Appeal and Related Case Information

Are any appeals arising in the same action or proceeding currently pending in the court? ■ Yes ☐ No

If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.

Appeals arising regarding same order from other parties; no appellate case number created yet.

Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:

Original Proceeding

Commenced by: ☐ Order to Show Cause ☐ Notice of Petition ☐ Writ of Habeas Corpus	Date Filed:
Statute authorizing commencement of proceeding in the Appellate Division:	

Proceeding Transferred Pursuant to CPLR 7804(g)

Court: Choose Court	County: Choose County
Judge (name in full):	Order of Transfer Date:

CPLR 5704 Review of Ex Parte Order:

Court: Choose Court	County: Choose County
Judge (name in full):	Dated:

Description of Appeal, Proceeding or Application and Statement of Issues

Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.

Appeal from the Decision and Order of the Hon. Jeffrey H. Pearlman, J.S.C. of the Supreme Court of the State of New York, New York County, dated January 21, 2026, entered by the Clerk of the Court on January 22, 2026. The relief requested was: (a) a declaration that the 2024 Congressional Map violates Article III, Section 4(c)(1) of the NY Constitution; (b) an order directing the Legislature to adopt a revised congressional redistricting map; (c) a permanent injunction enjoining Respondents from conducting congressional elections under the current map; (d) holding hearings and considering briefing and evidence. The relief was granted.

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

Appellants-Intervenor-Respondents an order reversing each and every portion of the Decision and Order dated January 21, 2026, entered by the Clerk of the Court on January 22, 2026 (NYSCEF Nos. 217, 218, and 219). Specifically that (1) the Supreme Court's adjudication of this case was a violation of the Due Process Clause, basic principles of fairness, and the party-presentation principle, and not supported by the trial record; (2) Article III, Section 4 of the New York Constitution does not authorize the crossover theory that the Supreme Court adopted; (3) the Supreme Court's order violates the Equal Protection Clause aof the Fourteenth Amendment to The U.S. Constitution; and (4) the trial court violated the U.S. Constitution's Elections Clause.

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	See attached addendum.		
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Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: Bennet J. Moskowtiz/Troutman Pepper Locke LLP			
Address: 875 Third Avenue			
City: New York	State: NY	Zip: 10022	Telephone No: 212-704-6000
E-mail Address: bennet.moskowitz@troutman.com			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 16, 17, 18, 19, 20, 21			
Attorney/Firm Name: Andrew G. Celli/ECBAWM			
Address: One Rockefeller Plaza, 8th Floor			
City: New York	State: NY	Zip: 10020	Telephone No: 914-427-3791
E-mail Address: acelli@ecbalaw.com			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 1, 2, 3, 4			
Attorney/Firm Name: Nicholas J. Faso/Cullen & Dykman LLP			
Address: 80 State Street, Suite 900			
City: Albany	State: NY	Zip: 12206	Telephone No: 518-788-9416
E-mail Address: nfaso@cullenllp.com			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 7, 8, 10			
Attorney/Firm Name: Aria Branch / Elias Law Group LLP			
Address: 250 Massachusetts Avenue - NW, Suite 400			
City: Washington	State: D.C.	Zip: 20001	Telephone No: 202-968-4518
E-mail Address: abranch@eliaslaw.com			
Attorney Type: ■ Retained ☐ Assigned ☐ Government ☐ Pro Se ■ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 1, 2, 3, 4			
Attorney/Firm Name: Brian Lee Quail / New York State Board of Elections			
Address: 40 North Pearl Street, Suite 5			
City: Albany	State: NY	Zip: 12207	Telephone No: 518-474-6220
E-mail Address: brian.quail@elections.ny.gov			
Attorney Type: ☐ Retained ☐ Assigned ■ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 5, 6, 9, 11			
Attorney/Firm Name: Seth J. Farber / Office of the Attorney General of the State of New York			
Address: 28 Liberty Street, 17th Floor			
City: New York	State: NY	Zip: 10005	Telephone No: 212-416-8029
E-mail Address: seth.farber@ag.ny.gov			
Attorney Type: ☐ Retained ☐ Assigned ■ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 12, 13, 14, 15			

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: Perry Maxwell Grossman / New York Civil Liberties Union			
Address: 125 Broad Street, 19th Floor			
City: New York	State: NY	Zip: 10004	Telephone No: 212-607-3347
E-mail Address: pgrossman@nyclu.org			
Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 22			
Attorney/Firm Name: Ruth Merewyn Greenwood / Election Law Clinic, Harvard Law School			
Address: 6 Everett Street, Suite 4105			
City: Cambridge	State: MA	Zip: 02136	Telephone No: 202-560-0590
E-mail Address: rgreenwood@law.harvard.edu			
Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 23			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			

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-

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

Intervenor-Respondents.

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Index No. 164002/2025

Hon. Jeffrey H. Pearlman

ADDENDUM

Supplemental Party Information

No.	Party Name	Original Status	Appellate Status
1	Michael Williams	Petitioner	Appellee-Petitioner
2	Jose Ramirez-Garofalo	Petitioner	Appellee-Petitioner

3	Aixa Torres	Petitioner	Appellee-Petitioner
4	Melissa Carty	Petitioner	Appellee-Petitioner
5	Board of Elections of the State of New York	Respondent	Appellee-Respondent
6	Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the Board of Elections of the State of New York	Respondent	Appellee-Respondent
7	Raymond J. Riley, III, in his official capacity as Co-Executive Director of the Board of Elections of the State of New York	Respondent	Appellee-Respondent
8	Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York	Respondent	Appellee-Respondent
9	Henry T. Berger, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York	Respondent	Appellee-Respondent
10	Anthony J. Casale, in his official capacity as Commissioner of the Board of Elections of the State of New York	Respondent	Appellee-Respondent
11	Essma Bagnuola, in her official capacity as Commissioner of the Board of Elections of the State of New York	Respondent	Appellee-Respondent
12	Kathy Hochul, in her official capacity as Governor of New York	Respondent	Appellee-Respondent
13	Andrea Stewart-Cousins, in her official capacity as Senate Majority Leader and President *Pro Tempore* of the New York State Senate	Respondent	Appellee-Respondent
14	Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly	Respondent	Appellee-Respondent
15	Letitia James, in her official capacity as Attorney General of New York	Respondent	Appellee-Respondent
16	Congresswoman Nicole Malliotakis	Intervenor-Respondent	Appellant-Intervenor-Respondent
17	Edward L. Lai	Intervenor-Respondent	Appellant-Intervenor-Respondent
18	Joel Medina	Intervenor-Respondent	Appellant-Intervenor-Respondent

19	Solomon B. Reeves	Intervenor-Respondent	Appellant-Intervenor-Respondent
20	Angela Sisto	Intervenor-Respondent	Appellant-Intervenor-Respondent
21	Faith Togba	Intervenor-Respondent	Appellant-Intervenor-Respondent
22	Nicholas O. Stephanopoulos	Third Party	Third Party
23	New York Civil Liberties Union Foundation	Third Party	Third Party

Dated: January 26, 2026
New York, New York

Bennet J. Moskowitz
875 Third Avenue
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Counsel for Congresswoman Nicole Malliotakis and Individual Voters Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba

Exhibit E

Troutman Pepper Locke LLP
875 Third Avenue
New York, NY 10022

troutman.com

Bennet J. Moskowitz
D 212.704.6087
bennet.moskowitz@troutman.com

January 26, 2026

Heather Davis
Chief Clerk of Court
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207

Re: Williams et al. v. Board of Elections of the State of New York et al., New York County Index No.164002/2025

Dear Ms. Davis:

We represent Intervenor-Respondents Congresswoman Nicole Malliotakis and Individual Voters Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba (collectively, "Intervenor-Respondents") in the above-referenced special proceeding. On January 21, 2026, the Supreme Court, Civil Branch, New York County issued a decision and order deeming the current configuration of New York State's 11th Congressional District to be unconstitutional under Article III, Section 4(c)(1) of the New York Constitution (the "Order"). The Order enjoins certain state officials from conducting any election under the State's current congressional map, and orders the Independent Redistricting Commission to reconvene to complete a new congressional map by February 6, 2026.

The ultimate question involved in this case is "the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States," as necessary to file a direct appeal as of right in the New York Court of Appeals. CPLR § 5601(b)(2). However, it is unclear at this time whether the Order—which is labeled as a "non-final disposition"—"finally determines [the] action." *Id.*

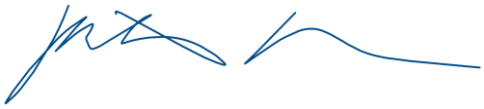
Given the uncertainty on these matters, Intervenor-Respondents have filed Notices of Appeal from the Order in both this Court and in the Appellate Division, First Judicial Department. Intervenor-Respondents intend to file an Emergency Motion For Interim Stay And Stay Pending Appeal shortly after this Court issues a docket number for this proceeding, and will file a similar emergency motion, along with a request for immediate certification, with the Appellate Division.

troutman pepper locke

While Intervenor-Respondents believe that filing in the Appellate Division, First Judicial Department is their only option under the relevant procedural statutes, including under CPLR § 5601(b)(2), to the extent this Court concludes that it has jurisdiction for a direct appeal, Intervenor-Respondents respectfully request that it take this case directly based upon Intervenor-Respondents' Notice of Appeal. Intervenor-Respondents also intend to file promptly with the Appellate Division a motion for leave to appeal to this Court, and if that court grants that request, would ask this Court to take this case up immediately.

Time is of the essence in this matter, as the Order has now thrown New York's 2026 Congressional Election—slated to begin on February 24, 2026—into chaos. Intervenor-Respondents need clarity from the appellate courts of New York by no later than February 10, 2026 as to whether they will stay that order and allow the 2026 Congressional Election to move forward under the current map. Absent such relief by February 10, Intervenor-Respondents will need to seek emergency relief from the U.S. Supreme Court, given that this case involves federal constitutional issues and federal elections. That timeline is necessary so that the U.S. Supreme Court has a fair opportunity to review the underlying issues and provide relief prior to February 24, 2026.

Respectfully submitted,



Bennet J. Moskowitz

Exhibit F

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

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

Petitioners,

-against-

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

Respondents,

-and-

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

Intervenor-Respondents.

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[PROPOSED] ORDER TO SHOW CAUSE

Upon reading and filing the parties' submissions on the appropriate means to redraw Congressional District 11, NYSCEF Docs. 203–06, Petitioners' Letter dated January 26, 2026,

NYSCEF Doc. 227, and the Affidavit of A. Branch dated February 3, 2026, and in light of the Court's Decision and Order entered on January 21, 2026, NYSCEF Doc. 217, it is hereby:

ORDERED, that the New York State Independent Redistricting Commission ("IRC"), comprised of the following members, Ken Jenkins, Chair, Charles Nesbitt, Ross Brady, Yovan S. Collado, John Conway III, Dr. Ivelisse Cuevas-Molina, Lisa Harris, Jamie Romeo, Marricka Scott-McFadden, and Willis H. Stephens, Jr., or their attorneys show cause before the Court at IAS Part 44, Room 321, of the Courthouse at 60 Centre Street, New York, NY 10007, on _____, 2026, at _____ AM/PM, or as soon thereafter as counsel may be heard, why an Order should not be made and entered:

1. Adding the New York State Independent Redistricting Commission and each of its Commissioners, including any commissioner appointed to the IRC during the pendency of this litigation, as Respondents to this proceeding;

2. Granting such other and further relief as the Court deems just and appropriate; and it is further

ORDERED, that service of a copy of this Order and the papers upon which it is granted, on or before _____ AM/PM on _____, 2026, by: (1) Federal Express or other overnight delivery service on Ken Jenkins, Chair, Charles Nesbitt, Ross Brady, Yovan S. Collado, John Conway III, Dr. Ivelisse Cuevas-Molina, Lisa Harris, Jamie Romeo, and Willis H. Stephens, Jr., waiving the requirement of a signature, addressed to said Commissioners at either 250 Broadway, 22nd Floor, New York, NY 10007 or 302A Washington Avenue Ext., Albany, NY 12203, being the offices of the New York State Independent Redistricting Commission; and (b) via email to each Commissioner: Ken Jenkins, Chair, jenkinsk@nyirc.gov; Charles Nesbitt, nesbittc@nyirc.gov; Ross Brady, bradyr@nyirc.gov; Yovan S. Collado, colladoy@nyirc.gov;

John Conway III, conwayj@nyirc.gov; Dr. Ivelisse Cuevas-Molina, cuevasmolinai@nyirc.gov; Lisa Harris, harrislr@nyirc.gov; Jamie Romeo, romeoj@nyirc.gov; Marricka Scott-McFadden, scottmcfaddenm@nyirc.gov; and Willis H. Stephens, Jr., stephensw@nyirc.gov shall be good and sufficient service.

SO ORDERED.

_____

Hon. Jeffrey H. Pearlman, J.S.C.

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 New York State Senate Majority Leader and President Pro Tempore of the Senate; Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly; and Letitia James, in her official capacity as Attorney General of New York,

Respondents,

-and-

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

Intervenor-Respondents.

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Index No. 164002/2025

AFFIRMATION IN SUPPORT OF PETITIOERS' ORDER TO SHOW CAUSE

ARIA BRANCH., an attorney duly admitted *pro hac vice* to practice before the Courts of the State of New York, hereby affirms the following under penalty of perjury:

1. I am a Partner at Elias Law Group LLP, counsel for Petitioners in this Civil Practice Law and Rules Art. 4 special proceeding.
2. I submit this Affirmation in support of Petitioners' Proposed Order to Show Cause dated February 3, 2026.
3. On January 21, 2026, the Court issued a Decision and Order ordering, among other things, that the Independent Redistricting Commission (IRC) reconvene to complete a new Congressional Map in compliance with the Court's Order by February 6, 2026.
4. The Court's decision appropriately reflects the need for swift remedial action. In light of the relief the Court ordered, Petitioners have filed a Proposed Order to Show Cause that would permit service upon the IRC and its Commissioners and require them to show cause as to why they should not be added to this action.
5. CPLR 1001(a) requires joinder of any party that is necessary "if complete relief is to be accorded between the persons who are parties to the action."
6. Because the relief the Court has ordered includes requiring the IRC to reconvene and propose a new congressional map, the IRC and its Commissioners are now necessary parties to this action.
7. In *Nichols v. Hochul*, the court likewise added the IRC and its Commissioners as Respondents during the remedial stage of redistricting litigation focused on the State Assembly map. There, following briefing on the appropriate remedy, the court issued an Order to Show Cause as to whether the IRC should be added as a

Respondent, and the IRC and its Commissioners ultimately consented to appear. *See Nichols v. Hochul*, 77 Misc. 3d 245, 248 (Sup. Ct. N.Y. Cnty. 2022). Petitioners respectfully ask the Court to take the same approach here.

8. To avoid unnecessary briefing on this matter, Petitioners respectfully request a virtual status conference at Your Honor's convenience where the IRC Commissioners and their counsel may appear and be heard. The parties may also discuss remedial options available to the Court in the event that impleading the IRC, or the ensuing process of redrawing the map, delays appropriate relief.

Dated: February 3, 2026
Washington, D.C.

Aria Branch
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