

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BELINDA DE GAUDEMAR, ANTHONY  
HOFFMANN, SUSAN SCHOENFELD, NANCY  
PASCAL, and MICHAEL CORBETT,

Plaintiffs,

v.

PETER S. KOSINSKI, in his official capacity as  
Co-Chair of the State Board of Elections;  
DOUGLAS A. KELLNER, in his official capacity  
as Co-Chair of the State Board of Elections;  
ANDREW J. SPANO, in his official capacity as  
Commissioner of the State Board of Elections;  
ANTHONY J. CASALE, in his official capacity as  
Commissioner of the State Board of Elections;  
TODD D. VALENTINE, in his official capacity as  
Co-Executive Director of the State Board of  
Elections; and KRISTEN ZEBROWSKI-  
STAVISKY, in her official capacity as Co-  
Executive Director of the State Board of Elections,

Defendants.

Case No. 22 Civ. 3534

**COMPLAINT FOR INJUNCTIVE  
AND DECLARATORY RELIEF**

**Three-Judge Court Requested**

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiffs Belinda de Gaudemar, Anthony Hoffmann, Susan Schoenfeld, Nancy Pascal, and Michael Corbett, by and through their undersigned counsel, file this Complaint for Declaratory and Injunctive Relief against Defendants Peter S. Kosinski, Douglas A. Kellner, Andrew J. Spano, Anthony Casale, Todd D. Valentine, and Kristen Zebrowski-Stavisky, in their official capacities as members of the New York State Board of Elections, and allege as follows:

**NATURE OF THE ACTION**

1. Under an existing federal court order, New York must conduct its congressional primary on June 28, 2022. This date is not negotiable: Ten years ago, the Department of Justice

secured a permanent injunction against the State of New York for its repeated violations of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and the Military and Overseas Voter Empowerment (MOVE) Act. To ensure that New York would finally meet its obligation to send ballots to military and overseas voters with adequate time for those voters to return them, the Northern District of New York entered a permanent injunction ordering the state to conduct its non-presidential federal primary on “the fourth Tuesday in June” in subsequent even-numbered years. *See* Ex. 1, *United States v. New York*, 1:10-cv-01214, ECF No. 59 (Jan. 27, 2012). In 2022, that date is June 28th, just eight weeks away.

2. Of course, New York must redraw its congressional boundaries before it can conduct a congressional primary—first, to remedy malapportionment in the existing districts, and second, to account for the fact that New York will only send 26 Representatives to the next Congress, one fewer than New York was allocated in the last decade.

3. As of the date of this filing, New York is in no position to meet its obligation to redraw its congressional boundaries in time to conduct its congressional primary on June 28. Nor is it even trying to do so: The Steuben County Supreme Court that has been tasked with redrawing New York’s congressional boundaries for the next decade has purportedly moved the congressional primary to August 23, and does not intend to finish its process until May 20—more than two weeks after primary ballots should be certified, and a full week after UOCAVA ballots must be sent to military and overseas voters under a June 28 primary schedule. The Steuben County Court’s “process” for drawing a new congressional plan, meanwhile, consists of holding a single-day hearing in predominantly white Bath, New York, which is located approximately five hours from New York City and is inaccessible by public transportation.

4. Because the State of New York has failed to timely redistrict its congressional boundaries, the obligation to implement new congressional redistricting plans for the State now falls to this court.

5. This obligation is serious: barring the swift adoption of an appropriate single-member congressional plan for the State of New York by this court, the state is obligated under 2 U.S.C. § 2a(c)(5) to hold at-large congressional elections—the “last-resort remedy” when a state has lost a congressional district, has failed to timely redistrict, and no state or federal court has redistricted the state in time for elections. *Branch v. Smith*, 538 U.S. 254, 275 (2003).

6. This court can avoid such an outcome by adopting a congressional plan for New York this week, in time for the New York State Board of Elections to certify the primary ballot, for UOCAVA ballots to be mailed no later than May 14, and for New York to conduct its primary on June 28, 2022, as it is federally mandated to do.

7. Because this court has a short window to implement such a plan—certainly not enough time to retain a special master and craft its own—this court should adopt the plan passed by the New York Legislature and signed by Governor Hochul on February 3, 2022. It is the plan that all of New York’s congressional candidates campaigned under, gathered petitions under, and are prepared to run under. It is also the plan that New York state courts were prepared to use for the State’s 2022 elections until just recently to ensure it could conduct timely elections.

8. New York’s decision to wait several more weeks before adopting a new congressional plan as its federally mandated June 28 primary rapidly approaches is untenable. The state has an obligation to redistrict in a timely manner. Since it has failed to do so, this court must act.

## **JURISDICTION AND VENUE**

9. Plaintiffs bring this action under 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the United States Constitution. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the Constitution and laws of the United States and involve the assertion of a deprivation, under color of state law, of a right under the Constitution of the United States. This Court has the authority to enter a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202, and authority to enter injunctive relief under Federal Rule of Civil Procedure 65.

10. This Court has personal jurisdiction over Defendants, who are sued in their official capacities and reside within this State.

11. Venue is proper in the Southern District of New York because a substantial part of the events that give rise to Plaintiffs' claims have occurred and will occur in this District. 28 U.S.C. § 1391(b)(2).

12. Because this action “challeng[es] the constitutionality of the apportionment of congressional districts,” a three-judge district court “shall be convened” for this case. 28 U.S.C. § 2284(a). While a three-judge court is not required for this court to begin acting on Plaintiffs' case, *id.* § 2284(b)(3), Plaintiffs respectfully request that this Court notify the Chief Judge of the U.S. Court of Appeals for the Second Circuit of this action and request that two judges be added to this Court for the purpose of adjudicating the merits of this dispute, *id.* § 2284(b)(1).

## **PARTIES**

13. Plaintiffs are citizens of the United States and are registered to vote in New York. Plaintiffs intend to vote for congressional candidates in the upcoming 2022 primary and general

elections. Plaintiffs reside in the following existing congressional districts, which are overpopulated relative to other districts in the state:

<b>Plaintiff</b>	<b>Existing Congressional District</b>
Belinda de Gaudemar (UOCAVA Voter)	CD-12
Anthony Hoffmann	CD-10
Susan Schoenfeld (UOCAVA Voter)	CD-10
Nancy Pascal	CD-8
Michael Corbett	CD-12

14. Defendants Peter S. Kosinski, Douglas A. Kellner, Andrew J. Spano, Anthony Casale, Todd D. Valentine, and Kristen Zebrowski-Stavisky are members of the New York State Board of Elections and are sued in their official capacities for actions taken under state law. The State Board is a bipartisan administrative agency within the executive department of the state government vested with the responsibility for the administration and enforcement of all laws relating to elections. N.Y. Elec. Law § 3-102. The State Board alone has the authority, through its commissioners and directors, to direct the actions of all local boards of elections. It is responsible for “issu[ing] instructions and promulgat[ing] rules and regulations relating to the administration of the election process.” *Id.* § 3-102(1).

### **FACTUAL ALLEGATIONS**

#### **I. New York’s prior congressional plan may no longer be used in any election.**

15. Almost exactly ten years ago, a federal three-judge court adopted congressional districts for the State of New York after the state failed to do so. *See Favors v. Cuomo*, No. 1:11-cv-05632, 881 F. Supp. 2d 356 (E.D.N.Y. 2012). Just as here, the *Favors* Plaintiffs claimed that court intervention was necessary in light of existing congressional malapportionment and the state’s failure to timely adopt new districts.

16. At the time, New York had been allocated 27 congressional seats. In adopting the then-new districts for the State of New York, the *Favors* Court properly relied on 2010 census data, dividing New York’s then-population of 19,378,102 persons into 27 districts of 717,707 or 717,708 people.

17. Now ten years later, the 2020 Census reported that New York’s resident population is 20,201,249—an increase of 823,147 persons. But this population growth has not been equal across the state. In particular, New York City has gained population, while Upstate New York has lost population. In light of these population shifts, New York’s existing congressional district configurations are unconstitutionally malapportioned. In particular, the Fifth, Eighth, Tenth, and Twelfth Congressional Districts are significantly overpopulated, while the rest of the districts are underpopulated.

18. Although New York gained population over the past decade, it did not keep pace with the population growth across the rest of the United States, meaning that New York is entitled to only 26 congressional seats for the next Congress, one fewer than in the past decade. New York’s congressional plan thus contains more districts than the number of representatives that New Yorkers may send to the U.S. House in the next Congress. *See* 2 U.S.C. § 2c (explaining a state’s congressional plan must have the same number of congressional “districts equal to the number of Representatives to which such State is so entitled”).

19. According to the 2020 Census results, the ideal population for each of these new 26 congressional districts is 776,971 or 776,972 persons.

20. Because New York’s congressional districts are badly malapportioned, and the state lost a congressional district, the existing *Favors* court-drawn plan cannot be used in any upcoming election without violating Article I, Section II, or 2 U.S.C. § 2(c).

**II. Under federal law, New York’s congressional primary must be held on June 28, 2022.**

21. Under its Elections Clause power, Congress may alter or make regulations for federal elections. U.S. Const. art. I, § 4. Congress exercised that power when it enacted the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, and the Military and Overseas Voter Empowerment (MOVE) Act of 2009.

22. Together, these Acts guarantee active-duty members of the uniformed services (and their spouses and dependents), and United States citizens residing overseas, the right “to vote by absentee ballot in general, special, primary, and runoff elections for Federal office.” 52 U.S.C. § 20302(a)(1). To ensure that right was not illusory, starting in 2009, Congress required states to send absentee ballots to UOCAVA voters at least 45 days before an election for federal office to provide voters sufficient time to receive, mark, and return absentee ballots. 52 U.S.C. § 20302(a)(8)(A).

23. To comply with these statutes and meet its obligations to UOCAVA voters, a state must hold its primary election sufficiently early within the calendar year. Nonetheless, in 2010, New York held its federal primary election in September, as it had done historically. This primary date did not allow the state to certify the results of the primary election and print and mail absentee ballots for the general election by the 45-day deadline, and consequently, New York failed to provide UOCAVA voters with timely ballots before the November general election.

24. As a result, the Department of Justice sought and obtained a permanent injunction from the Federal District Court for the Northern District of New York fixing the date of the state’s federal primary election in non-presidential years as “the fourth Tuesday in June,” which would guarantee the state sufficient time to certify the results of the primary election and print and mail absentee ballots for the general election. *See* Ex. 1 at 6.

25. That date was not plucked out of thin air; it was specifically recommended to the court by the Officers of the New York State Election Commissioners' Association (ECA), a bipartisan organization consisting of two election commissioners from each of New York State's 62 counties. *See* Ex. 2. As those Officers explained to the court, the ECA had previously "voted overwhelmingly to recommend" a federal primary "the fourth Tuesday of June" to the New York Legislature and its Governor to allow "meaningful compliance with the federal MOVE Act." *Id.* ¶ 4. The ECA warned the court that a later primary, such as in August, would hinder their ability to comply with federal law. *See generally id.* (explaining the logistical barriers to complying with UOCAVA and the MOVE Act when a federal primary occurs after June in New York).

26. Heeding this warning, the Northern District of New York entered a permanent injunction ordering New York to conduct its federal primary on the fourth Tuesday in June in even-numbered years, "unless and until New York enacts legislation resetting the non-presidential federal primary election for a date that complies fully with all UOCAVA requirements, *and is approved by this court.*" Ex. 1 at 8 (emphasis added). The court further tasked the New York State Board of Elections with ensuring the aforementioned "federal primary election calendar is implemented by and complied with by local boards of election." *Id.* at 9. Since that order, New York State has conducted each of its congressional primary elections—in 2012, 2014, 2016, 2018, and 2020—on the fourth Tuesday in June.

27. Although New York enacted legislation to permanently set its primary as the fourth Tuesday in June in 2019, *see* 2019 Sess. Law News of N.Y. Ch. 5 (A. 779), N.Y. Elec. Law § 8-100, it has never sought approval from the court to be released from the injunction. Nor is there any reason to believe the court would have approved a late August primary had it sought authorization to do so, given the circumstances leading to the injunction in the first place.

28. As a result, under federal law, New York is obligated to hold its federal primary on June 28, 2022. It may hold its state office primaries at a later date if it so chooses, but it cannot unilaterally trade away its federal primary for its preferred date without violating an existing federal order.

**III. New York will not meet its obligation to adopt new congressional boundaries in time for a June 28, 2022 primary.**

29. New York State has now been trying—and failing—to finalize its new congressional boundaries for the better part of a year.

30. New York’s Independent Redistricting Commission (IRC) held hearings in the summer of 2021 to aid it in drawing the state’s congressional boundaries. But the IRC ultimately deadlocked when it came time to adopt plans, failing to send the Legislature its second-round recommended plans this past January.

31. When the IRC failed, the New York Legislature stepped into the void, swiftly passing legislation remedying New York’s malapportionment in its congressional districts. *See* Exs. 6 and 7. The Legislature’s plan, as signed by Governor Hochul on February 3, would have divided the state, as required, into 26 congressional districts, each with 776,971 or 776,972 persons (the “2022 Congressional Plan”). That legislation was passed well within the time for New York to conduct its primary on June 28, as planned.

32. After New York’s congressional plan was challenged in the Steuben County Supreme Court, that court waited an entire month to hold its first hearing on the matter. At that hearing on March 3, by which time active petitioning under the 2022 Congressional Plan had already begun, the court explained that it was too late to implement a different congressional plan in time for the 2022 elections. As the court explained, “even if I find the maps violated the Constitution and must be redrawn, it is highly unlikely that the new viable map could be drawn

and be in place within a few weeks or even a couple of months, therefore striking these maps would more likely than not leave New York without any duly elected Congressional delegates.” Ex. 8 at 70:6-15.

33. One month later, in a wholesale reversal, the Steuben County Supreme Court enjoined the Legislature’s 2022 Congressional Plan for the 2022 elections. *See* Ex. 3 at 17-18. In doing so, the Steuben County Supreme Court still admitted that there may not be time to develop a different map with a special master, explaining, “it is possible that New York would not have a Congressional map in place that meets the Constitutional requirements in time for the primaries even with moving the primary date back to August 23, 2022.” Ex. 3 at 17. The court forged ahead anyway. A few days later, New York appellate courts stayed the Steuben County Supreme Court Order, allowing primary processes and petitioning to continue under the 2022 Congressional Plan.

34. In the interim, on April 7, the window closed for congressional candidates to collect signatures and submit designating petitions from registered New York voters in their district, as required by New York law. *See* N.Y. Elec. Law § 6-136(2). Those petitions were gathered, signed, and submitted using the Legislature and Governor’s 2022 Congressional Plan.

35. On April 27, after all petitions had been submitted, and one week before the New York State Board of Elections was due to certify ballots for the primary election, the New York Court of Appeals, in a 4-3 decision, ordered the Steuben County Supreme Court to draw new maps for the 2022 elections with the help of a special master. *See* Ex. 4. In so ordering, the Court of Appeals explained, “it will likely be necessary to move the congressional and senate primary elections to August.” *Id.* at 30. The New York Court of Appeals did not address the federal permanent injunction ordering New York to conduct its federal primary on the fourth Tuesday in June, but rather noted that, historically, “New York routinely held a bifurcated primary until

recently, with some primaries occurring as late as September.” *Id.* New York’s late primary, of course, was what led to the federal injunction in the first place.

36. Two days later, after the close of the petitioning period, and two weeks before the deadline for mailing ballots to military and overseas voters, the Steuben County Supreme Court ordered that New York’s federal primary election occur on August 23, 2022, and explained that a new congressional plan would be finalized on May 20. *See* Ex. 5.

37. The Steuben County Supreme Court’s process for adopting new congressional plans, meanwhile, provides no meaningful opportunity to comment on the submitted maps without traveling to Bath, New York in person—a hardship for the vast majority of New York voters, and particularly for many minority voters who live a five-hour drive away, who do not own cars, and who are not able to take an entire day off work to participate in the hearing.

38. Under the Steuben County Supreme Court’s timeline, a new congressional plan will not be finished until two weeks after primary ballots are due to be certified, and at least a week after UOCAVA ballots would need to be mailed to those voters under a June 28 primary schedule.<sup>1</sup>

39. These cascading orders, several of which conflict with an existing federal order, have left candidates and voters alike confused. Voters, for one, do not know when the primary is, or who is running to represent them. Candidates do not know whether they are still qualified, will need to restart the process, or will be drawn out of the district in which they were previously running. They are unsure as to whether to start campaigning or stop. This confusion was preventable, had New York appropriately timely redistricted the state, as they are required to do.

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<sup>1</sup> Forty-five days before June 28, 2022 is Saturday, May 14, one week before the Steuben County Supreme Court plans to finalize a new congressional plan.

**IV. Federal courts have an obligation to adopt single-member congressional boundaries when a state fails to timely redistrict.**

40. It is now plain that New York is in no position to meet its obligation to redraw its congressional boundaries in time to conduct its congressional primary on June 28. Nor is it even trying to do so.

41. Although states are to be given the first opportunity to redistrict, United States Supreme Court precedent instructs that federal courts have an obligation to adopt single-member congressional boundaries when a state fails to do so in a timely manner. *See Branch*, 528 U.S. at 254; *see also Grove v. Emison*, 507 U.S. 25, 36 (1993) (instructing that a federal district court would be empowered to “adopt[] its own plan if it had been apparent that the state court . . . would not develop a redistricting plan in time for the primaries”); *Scott v. Germano*, 381 U.S. 407, 409 (1965) (ordering the federal district court to retain jurisdiction of a reapportionment case so that it may order “a valid reapportionment plan” “in the event a valid reapportionment plan . . . is not timely adopted” by the state legislature or state courts).

42. If this court does not act timely, the consequences for New York are enormous: Under 2 U.S.C. § 2a(c)(5), when a state loses a congressional seat in the apportionment process, but fails to redistrict in time for congressional elections, the state shall hold an at-large election for all congressional seats. As the Supreme Court has explained, this provision functions as a “last-resort remedy to be applied when, on the eve of a congressional election, no constitutional redistricting plan exists and there is no time for either the State’s legislature or the courts to develop one.” *Branch*, 538 U.S. at 275.

43. The U.S. Supreme Court has made clear, however, that federal courts have an obligation to do everything they can to redistrict a state into single-member districts pursuant to 2 U.S.C. § 2(c) before triggering this remedial provision. In *Branch*, for instance, the U.S. Supreme

Court explained that the federal district court had an obligation to adopt a single-member congressional plan for Mississippi when it became clear the state's own plan would not be pre-cleared in time to be used for that year's elections. *Id.* at 261-63. In that case, just as here, Mississippi had lost a congressional seat in the decennial apportionment of seats in the U.S. House; without the federal court's swift intervention, Mississippians would have voted for their congressional members in an at-large election. *Id.* at 275 (explaining that "§ 2a(c) is inapplicable *unless* the state legislature, and state and federal courts, have all failed to redistrict pursuant to § 2c").

44. The window for this court to act to prevent such a scenario is swiftly closing. This court is already far behind the *Favors* Court, which adopted a congressional plan in mid-March, one day before petitioning was set to begin in advance of the state's then-June 26, 2012 primary. *See* Order Adopting Remedial Plan, *Favors v. Cuomo*, No. 1:11-cv-05632, ECF No. 242 (E.D.N.Y. Mar. 19, 2012).

45. To adopt a congressional plan in time for New York to conduct a primary on June 28, this court should do so the week of May 2nd, in time for the New York State Board of Elections to certify the primary ballot, and for UOCAVA ballots to be mailed no later than May 14.

46. The logical congressional plan for this court to adopt is the one passed by the New York Legislature and signed by Governor Hochul on February 3, 2022. It is the plan that all of New York's congressional candidates campaigned under, gathered petitions under, and are prepared to run under. It is also the plan that New York state courts were prepared to use for its 2022 elections until just recently, its compliance with the New York Constitution notwithstanding, to ensure it could conduct timely elections.

47. New York’s decision to forge ahead to attempt to adopt different congressional plans as its federally mandated June 28 primary rapidly approaches is untenable. The state has an obligation to timely redistrict. Since it has failed to do so, this court must act.

## CLAIMS FOR RELIEF

### COUNT I

#### **Violation of Article I, Section 2 of the U.S. Constitution 42 U.S.C. § 1983 Congressional Malapportionment**

48. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Complaint and the paragraphs in the count below as though fully set forth herein.

49. Article I, Section 2 of the U.S. Constitution requires “that when qualified voters elect members of Congress each vote be given as much weight as any other vote.” *Wesberry v. Sanders*, 376 U.S. 1, 8 (1964). This means that state congressional districts must “achieve population equality ‘as nearly as is practicable.’” *Karcher v. Daggett*, 462 U.S. 725, 730 (1983) (quoting *Wesberry*, 376 U.S. at 7–8).

50. Article I, Section 2 requires an even higher standard of exact population equality among congressional districts than what the Fourteenth Amendment requires of state legislative districts. It “permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is shown.” *Karcher*, 462 U.S. at 730 (quoting *Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969)). Any variation from “absolute population equality” must be narrowly justified. *Id.* at 732–33.

51. Given the significant population shifts that have occurred since the 2010 Census, New York’s congressional districts as drawn by the *Favors* Court are now unconstitutionally malapportioned and their use would violate Plaintiffs’ constitutional right to an undiluted vote.

**COUNT III**

**Violation of 2 U.S.C. § 2c  
Congressional Malapportionment**

52. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

53. 2 U.S.C. § 2c provides that, in a state containing “more than one Representative,” “there shall be established by law a number of districts equal to the number of Representatives to which such State is so entitled.”

54. New York’s current congressional district plan contains 27 districts. But New York is currently allotted only 26 seats in the U.S. House. As a result, the congressional plan as drawn by the *Favors* Court violates Section 2c’s requirement that the number of congressional districts be “equal to the number of Representatives to which [New York] is so entitled.”

55. Any future use of New York’s current congressional district plan would violate 2 U.S.C. § 2c and would unlawfully dilute Plaintiffs’ votes.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully request that this Court:

- a. Notify the Chief Judge of the U.S. Court of Appeals for the Second Circuit of this action and request that two other judges be designated to form a three-judge district court, 28 U.S.C. § 2284(b)(1);
- b. Declare that the current configuration of New York’s congressional districts, as adopted by the *Favors* Court in 2012, violates Article I, Section 2 of the United States Constitution, and 2 U.S.C. § 2c;
- c. Preliminarily and permanently enjoin Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of

them, from implementing, enforcing, or giving any effect to New York's congressional districting plans as adopted by the *Favors* Court;

- d. Order Defendants to certify the primary ballot under a congressional plan as adopted by this court which complies with Article I, Section 2 of the U.S. Constitution and 2 U.S.C. § 2c, in time for New York to conduct its primary on June 28, 2022, as required by federal court order;
- e. Award Plaintiffs their costs, disbursements, and reasonable attorneys' fees incurred in bringing this action, pursuant to 42 U.S.C. § 1988 and other applicable laws; and
- f. Grant such other and further relief as the Court deems just and proper.

Dated: May 2, 2022

Respectfully submitted,

**EMERY CELLI BRINCKERHOFF  
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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**UNITED STATES OF AMERICA,**

**Plaintiff,**

**1:10-cv-1214  
(GLS/RFT)**

**v.**

**STATE OF NEW YORK et al.,**

**Defendants.**

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**Gary L. Sharpe**  
**Chief Judge**

**MEMORANDUM-DECISION AND ORDER**

**I. Introduction**

Nothing is more critical to a vibrant democratic society than citizen participation in government through the act of voting. It is unconscionable to send men and women overseas to preserve our democracy while simultaneously disenfranchising them while they are gone. To some extent, that is precisely what New York has done. Having had ample opportunity to correct the problem, it has failed to find the political will to do so. While matters of comity ordinarily counsel federal courts to refrain from becoming embroiled in state election schemes, New York has left the court no choice. If federally-guaranteed voting rights are to be protected, the court must act.

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 42 U.S.C. §§ 1973ff to 1973ff-7, as amended by the Military and Overseas Voter Empowerment (MOVE) Act, Pub. L. No. 111-84, subtitle H, §§ 575-589, 123 Stat. 2190, 2318-2335 (2009) protects

the federally-guaranteed voting rights of New York's military and overseas voters. Since at least 2010, New York has recognized that its voting laws are not compliant with UOCAVA's federal mandate. Accordingly, the State entered a Consent Decree on October 19, 2010. (See Dkt. No. 9.) Among other things, it agreed to amend its law to ensure future compliance with UOCAVA and agreed to take certain steps to correct UOCAVA violations. (See Consent Decree Terms, *id.*) Furthermore, the State transmitted additional absentee ballots after October 1, 2010—that were unknown to the court at the time it entered the Decree—which constituted additional UOCAVA violations that fell beyond the scope of the relief ordered in the Consent Decree. (See *id.*)

Now pending is the United States' motion seeking permanent and supplemental relief to ensure New York's primary election date complies with UOCAVA and to address the additional violations found subsequent to the Decree. (See Dkt. No. 16.) For the reasons that follow, the motion is granted.

## **II. Background**

On October 12, 2010, the United States filed this action to remedy violations of UOCAVA. UOCAVA guarantees active duty members of the

uniformed services (and their spouses and dependents), and United States citizens residing overseas, the right “to vote by absentee ballot in general, special, primary, and runoff elections for Federal office.” 42 U.S.C. § 1973ff-1(a)(1). New York is responsible for complying with UOCAVA and ensuring that validly-requested absentee ballots are sent to UOCAVA voters in accordance with its terms. 42 U.S.C. §§ 1973ff-1 & 1973ff-6(6).

New York’s statutorily-prescribed non-presidential federal primary election date prevents it from complying with UOCAVA’s ballot transmission deadline of forty-five (45) days prior to a federal general election. On August 27, 2010, the Secretary of Defense granted New York a hardship waiver for the November 2, 2010 federal general election on that basis. The waiver exempted New York from complying with UOCAVA’s ballot transmission deadline of September 18, 2010. Thus, the waiver extended New York’s UOCAVA ballot transmission deadline until October 1, 2010. The waiver was granted based in part upon New York’s representations that all ballots would be transmitted by October 1, 2010.

However, New York failed to transmit all UOCAVA ballots by October 1, 2010, prompting the United States to contact State officials. During these communications, New York represented that at least thirteen (13)

counties transmitted UOCAVA ballots after October 1, 2010, but stated that all UOCAVA ballots had been transmitted no later than October 10, 2010.

On October 19, 2010, and based on these representations, this court entered the Decree to remedy these UOCAVA violations. (See Dkt. No. 9.) The Decree required New York to accept as valid all UOCAVA ballots that were properly executed and postmarked or showing a date of endorsement of receipt by another agency of the United States government by November 1, 2010, and that were received by New York's election officials by November 24, 2010 and otherwise valid. The Decree left open the issue of additional relief should New York fail to take necessary measures to ensure future UOCAVA compliance. The Decree also contemplated supplemental relief should additional UOCAVA violations be discovered.

### **III. Discussion**

#### **A. Primary Election Date**

Determining an UOCAVA-complaint date for New York's 2012 primary election requires consideration of a multitude of positions, all of which were presented by New York. While the Election Commissioners' Association (ECA), the State Senate, which was granted amicus status,

and the State Assembly<sup>1</sup> expressed their views, the Governor did not take a position.

Specifically, the ECA and State Assembly urge the court to move the September Primary to the fourth Tuesday in June in order to reliably meet the mandates of UOCOVA. The ECA contends that an August primary election does not provide sufficient time to deal with the foreseeable obstacles in certifying a primary election result or the ballot. Thus, ECA claims that an August election would potentially disenfranchise military and overseas voters.

On the other hand, the State Senate seeks an August primary date because it would be the least disruptive to the current, and long-standing, September primary system. In so arguing, the Senate urges the court to consider the economic implications of the primary date, the hardship of candidates to obtain signatures in the winter months, and that June is at the end of the legislative session. More specifically, the Senate points out that a June primary would force its members to have to weigh their elected responsibilities against the need for political presence in their district.

Having considered the parties submissions, and considering their

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<sup>1</sup> Not a party to this litigation and did not seek amicus status.

contentions with care, the court concludes that the fourth Tuesday in June for the non-presidential primary is in the best interest of the State.

However, this decision by no means precludes New York from reconciling their differences and selecting a different date, so long as the new date fully complies with UOCAVA. The court fully recognizes that a permanent primary date is best left to New York, but has acted as it must to preserve federally protected voting rights.

**B. Additional UOCAVA violations**

Following the entry of the Decree, the court has been informed that at least thirty-six (36) of New York's sixty-two (62) counties transmitted UOCAVA ballots after October 1, 2010. Furthermore, at least thirteen (13) counties transmitted UOCAVA ballots after the October 10, 2010, transmission date stipulated in the Decree. Since there appears to be no dispute on the subsequent violations, the court grants the relief sought by the United States to determine the extent of the UOCAVA violations and the proposed remedy to rectify those violations.

**IV. Conclusion**

**WHEREFORE**, for the foregoing reasons, it is hereby

**ORDERED** that the United States' motion for permanent and

supplemental relief (Dkt. No. 16) is **GRANTED**; and it is further

**ORDERED** that:

- (1) Notwithstanding any current state law or administrative procedure to the contrary, New York shall conduct its 2012 non-presidential federal primary election on a date no later than 35 days prior to the 45-day advance deadline set by the MOVE Act for transmitting ballots to the State's military and overseas voters, *i.e.*, at least 80 days before the November 6, 2012 federal general election. In 2012, that date shall be June 26, 2012.
- (2) In subsequent even-numbered years, New York's non-presidential federal primary date shall be the fourth Tuesday of June, unless and until New York enacts legislation resetting the non-presidential federal primary election for a date that complies fully with all UOCAVA requirements, and is approved by this court.
- (3) For the purposes of determining the date and time for performing any act prescribed by any law and/or administrative procedure applicable to New York's non-presidential federal

primary, such non-presidential federal primary election date shall be deemed to be held on the dates provided in paragraphs (1) and (2) above.

- (4) The New York State Board of Elections (“NYSBOE”) shall, within five (5) days of this Order, provide the court with a proposed non-presidential federal primary election calendar for all statutory and administrative election-related deadlines based upon the non-presidential federal primary election date set by the court. The United States shall have five (5) days to respond. Once approved by the court, the NYSBOE shall have ten (10) days to take all steps necessary to adopt and promulgate this non-presidential federal primary calendar.
- (5) Having promulgated an approved non-presidential federal primary election calendar, the NYSBOE shall take all steps necessary to ensure that such non-presidential federal primary election calendar is implemented by and complied with by local boards of election. To this end, and to ensure future UOCAVA compliance, the parties shall confer as to an appropriate schedule for defendants to provide pre-election reporting to the

United States with respect to the State's UOCAVA compliance.

- (6) Within fourteen (14) days of this Order, the parties, having conferred, shall provide the court with a list of those county boards of elections, if any, to be re-surveyed concerning UOCAVA ballots from the 2010 federal general election, along with an explanation of any differences between the parties' proposals.
- (7) If necessary and appropriate, the court will determine the list of counties to be re-surveyed. Within seven (7) days of that determination, the NYSBOE shall transmit the attached questionnaire concerning ballots transmitted to voters in the 2010 federal general election pursuant to UOCAVA to each county board of elections on that list with instructions for the chief official or officials of each county board to certify the accuracy of the board's responses to the questionnaire.
- (8) Defendants shall instruct each affected county board of elections that each completed questionnaire must be returned to the NYSBOE within thirty (30) days of its receipt. After consulting with counsel for the United States, the NYSBOE

shall file all completed questionnaires with this court within sixty (60) days of this Order, along with an accurate summary of the survey results, and, if necessary, an explanation as to why the survey results are incomplete. The United States may respond to this filing within ten (10) days. This court retains jurisdiction to take all appropriate steps to ensure the completeness and accuracy of the information provided by defendants and the county boards of elections.

- (9) After the actions in paragraphs (7) and (8) above are complete, defendants shall ensure that local election officials in New York State take such steps as are necessary to count as validly-cast ballots in the November 2, 2010 federal general election all those ballots cast for federal offices, including Federal Write-in Absentee Ballots, requested up to and including October 10, 2010 and transmitted to overseas and military voters after that date but received by such election officials after November 24, 2010, so long as such ballots are executed and postmarked, or show a dated endorsement of receipt by another agency of the United States government (or in the case of military voters, are

signed and dated by the military voter and one witness thereto) by November 1, 2010 and are otherwise valid under New York law.

- (10) Within twenty (20) days of the completion of the actions required by paragraphs (7)-(9) above, defendants shall, after consulting with the United States, present a plan to the court detailing the procedures it will employ to count such ballots and certify the votes for federal offices. Defendants shall conclude ballot counting and recertification of all affected ballots within thirty (30) days after the court approves the ballot counting and recertification plan.
- (11) Defendants shall take all reasonable steps to notify all affected voters of the terms of this Order and that their votes were counted in the 2010 federal general election.
- (12) Defendants shall file a report with this court, in a format to be agreed upon by the parties, no later than five (5) days following the completion of any recertification process, detailing the number of UOCAVA absentee ballots, by county, that meet the conditions of this Order and that have been counted for the

November 2, 2010 federal general election. The report will set forth the following information, by county, categorized by absent uniformed services voters with APO/FPO addresses or non-US street addresses; uniformed services voters at a street address within the US; and overseas civilian voters:

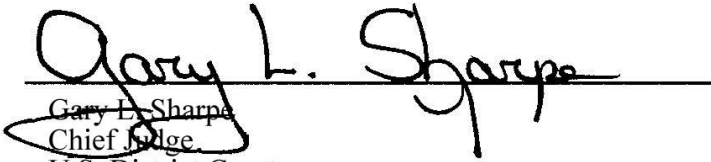
- a. The number of absentee ballots requested by UOCAVA voters between October 1, 2010 and October 10, 2010;
- b. The number of absentee ballots requested by UOCAVA voters between October 1, 2010 and October 10, 2010 but sent to such voters after October 10, 2010;
- c. The number of absentee ballots identified in subparagraph (b) that were received from UOCAVA voters later than the close of business on November 24, 2010 and rejected solely for that reason; and
- d. The number of absentee ballots that, pursuant to this Order, have been counted and included in recertified election totals.

(13) This court shall retain jurisdiction to ensure additional relief as appropriate; and it is further

**ORDERED** that the Clerk provide a copy of this Memorandum-  
Decision and Order to the parties.

**IT IS SO ORDERED.**

January 27, 2012  
Albany, New York

  
\_\_\_\_\_  
Gary L. Sharpe  
Chief Judge  
U.S. District Court

## Questionnaire

County: \_\_\_\_\_

Instructions: Each New York county board of elections must answer the following questions. The chief official of the board must sign the responses to these questions and attest to their accuracy under penalty of perjury. Responses must be submitted to the New York State Board of Elections within 30 days of receiving this survey. Please attach additional sheets of paper if necessary to respond completely to each question. All responses will be filed by the State with the U.S. District Court for the Northern District of New York in connection with United States v. New York, et al., No. 1:10-CV-1214 (GLS/RFT) (N.D.N.Y. filed Oct. 12, 2010).

### Part I: UOCAVA Ballot Requests

1. Please provide the number of UOCAVA ballot requests received by your county prior to September 18, 2010: \_\_\_\_\_.
2. Please provide the number of UOCAVA ballot requests received by your county between September 18, 2010 and October 1, 2010: \_\_\_\_\_.
3. Please provide the number of UOCAVA ballot requests received by your county between October 1, 2010 and October 10, 2010: \_\_\_\_\_.
4. Please provide the number of UOCAVA ballot requests received by your county after October 10, 2010: \_\_\_\_\_.

### Part II: UOCAVA Ballot Transmittals

1. Please provide the number of UOCAVA ballots that were transmitted to voters (including by electronic transmission) by October 1, 2010: \_\_\_\_\_.
2. Please provide the number of UOCAVA ballots that were transmitted to voters (including by electronic transmission) between October 1, 2010

and October 10, 2010: \_\_\_\_\_.

3. Please provide the number of UOCAVA ballots that were transmitted to voters (including by electronic transmission) after October 10, 2010:

\_\_\_\_\_.

a. If ballots were transmitted after October 10, 2010, please provide the following:

i. The number of UOCAVA ballots transmitted after October 10, 2010 that were requested before October 10, 2010: \_\_\_\_\_.

ii. The number of UOCAVA ballots transmitted after October 10, 2010 that were requested after October 10, 2010: \_\_\_\_\_.

#### Part III: UOCAVA Ballots Returned to the County

1. Please provide the number of UOCAVA ballots received by the county prior to November 2, 2010: \_\_\_\_\_.

2. Please provide the number of UOCAVA ballots received by the county between November 2, 2010 and November 24, 2010: \_\_\_\_\_.

3. Please provide the number of UOCAVA ballots received by the county after November 24, 2010: \_\_\_\_\_.

#### Part IV: Rejected UOCAVA Ballots

1. Please provide: a.) the number of UOCAVA ballots that were received prior to November 2, 2010 that were rejected and not counted: \_\_\_\_\_; and b.) the reason(s) for rejection of each of those ballots:

\_\_\_\_\_  
\_\_\_\_\_

2. Please provide: a.) the number of UOCAVA ballots that were

received between November 2, 2010 and November 24, 2010 that were rejected and not counted: \_\_\_\_\_; and b.) the reason(s) for rejection of each of those ballots:

\_\_\_\_\_  
\_\_\_\_\_

3. Please provide the number of UOCAVA ballots that were received after November 24, 2010 that were rejected and not counted:

\_\_\_\_\_.

a. Were any ballots received after November 24, 2010 requested by October 10, 2010 and transmitted to the voter after that date?

\_\_\_\_\_.

i. If yes, please provide the number of such ballots: \_\_\_\_\_.

ii. If yes, please provide the number of such ballots that were not counted only because they were received after November 24, 2010:

\_\_\_\_\_.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Signature:

\_\_\_\_\_

Printed name:

\_\_\_\_\_

Title:

\_\_\_\_\_

Date: \_\_\_\_\_



**STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL**

ERIC T. SCHNEIDERMAN  
Attorney General

STATE COUNSEL DIVISION  
Litigation Bureau

Writer Direct: (518) 473-7614

December 6, 2011

Honorable Gary L. Sharpe  
James T. Foley U.S Courthouse  
445 Broadway, Room 441  
Albany, NY 12207-2926

Re: *United States v. State of New York, et al.*  
Northern District of New York  
10-CV-1214 (GLS)

Dear Judge Sharpe:

As the Court is aware, the Department of Defense recently denied New York State's application for a waiver of the 45-day deadline for transmitting UOCAVA ballots for the 2012 federal non-presidential primary and general elections. The State's prematurity argument with respect to the 2012 federal elections is thus no longer viable. Several important issues do, however, remain before the Court.

As set forth in the State's memorandum of law in opposition to the United States' motion for supplemental and permanent relief, New York does not dispute that, given the fact of the waiver denial, the federal non-presidential 2012 primary should be held at least 80 days before the 2012 general election to insure compliance with UOCAVA. As the State also pointed out, however, the United States seeks additional relief that goes beyond that required to guarantee compliance with federal law and which, if granted, would improperly infringe on the State's prerogative to set its own UOCAVA-compliant primary date. Specifically, the federal government asks the court to direct that the State propose a new primary date, and any other necessary election calendar adjustments, within ten days of the issuance of a remedial order. As explained in the State's opposition papers, the ten-day deadline would deprive the Legislature of a reasonable opportunity to develop a revised primary schedule. Instead, the Court can issue a remedial order requiring that the primary election be scheduled for a date prior to August 18, 2012, and then should set a status conference for a later date to allow the Court sufficient time to take any necessary action to insure UOCAVA compliance in 2012 if a new primary date has not been set by that date.

In its reply papers, the Proposed-Intervenor New York State Senate, requests that the Court grant relief significantly beyond that sought by the United States by ordering that the primary be held in August 2012. The State Senate would thus have the Court involve itself -- to a far greater extent than contemplated by even the federal government -- in an area traditionally

December 6, 2011  
Page 2

left to the states. See Bush v. Hillsborough County Canvassing Board, 123 F. Supp.2d 1305, 1317 (N.D. Fla. 2000) (requiring compliance with UOCAVA but declining to "legislate the intricacies of state election procedures" in its remedial order). Further, the Legislature is best suited to resolve the implementation issues that would arise from the setting of dates for state and federal primaries. An order directing that the primary be held before August 18, as requested by the United States, insures UOCAVA compliance; the State should be allowed to set the specific date.

Should the Court, at some point, nonetheless deem it appropriate to direct that the primary be conducted on a particular date, it should be mindful that there is a widely held view -- among elected officials of both major political parties and public interests groups -- that an August primary date could significantly disrupt election operations in a manner that could be avoided by holding the primary in June. It should also be noted that, for many years, New York's primary elections were held in June. Although the State of New York does not take a position as to the appropriate primary date, and remains hopeful of a legislative solution, the Court should have before it the fullest record upon which to render a decision should it reach the primary date issue. Accordingly, annexed to this letter are (1) a letter signed by the Speaker of the New York State Assembly and (2) an affidavit from the bi-partisan Election Commissioners' Association, to which the Speaker refers, each of which offers a factual basis and rationale for holding the primary in June. In addition, several civil rights and civic groups (Dkt. 38) and the Election Commissioners' Association (undocketed) have already submitted letters to the Court in support of a June primary. Any determination by the Court as to the primary date would involve the consideration of a highly complex pre-election process. The State, therefore, urges the Court to take into account the information in support of a June primary should it be deemed necessary to impose a Court-ordered date.

Finally, the State respectfully submits that any order regarding the primary election schedule be limited to 2012, thus affording the State Legislature and the Governor an opportunity to set the primary dates for future primaries.

Thank you for your consideration of this matter.

Respectfully yours,

S/ Jeffrey M. Dvorin  
Jeffrey M. Dvorin  
Assistant Attorney General  
Bar Roll No. 101559

cc: All attorneys of record via CM/ECF



SHELDON SILVER  
Speaker of the Assembly

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

Room 932  
Legislative Office Building  
Albany, New York 12248  
(518) 455-3791

December 2, 2011

Honorable Gary L. Sharpe  
James T. Foley U.S. Courthouse  
445 Broadway  
Albany, NY 12207-2924

Dear Judge Sharpe:

On behalf of the New York State Assembly, I write to explain why we, along with the New York State Election Commissioner's Association, and a host of good government groups, believe that a June primary election, rather than an August one, offers the greatest potential for voter participation and practical logistical efficiency while simultaneously discouraging widespread voter suppression.

At the outset, it is my belief that the Legislature should and can come to an agreement which is in full compliance with the MOVE act. To that end, I ask the Court to grant us time, a short period, to set a date as required. However, should this Court determine that it is constrained to fix a new primary day for all New York State federal, state, and local elections at this time, the Assembly strongly believes that such a primary election should be held on the fourth Tuesday in June.

The Assembly has consistently authored and supported legislation intended to increase voter turnout, access, and overall participation in our election process. It is our continued commitment to these principles and opposition to policies that suppress voter participation that we support a primary in June.

It is well known that voters, notably those living in urban centers, traditionally take annual vacations away from their homes in July or August. Therefore, a primary election in July or August would undoubtedly have a widespread and deleterious effect of suppressing voter turnout in important primary elections.

The Assembly views a June primary as not only ensuring higher voter participation but also as the most effective way to ensure full and meaningful compliance with all aspects of the MOVE Act.

New York's election law is extraordinarily rigid, linear, and sequential. That is to say that the Election Law mandates that each step in the responsible and effective administration of an orderly primary election is predicated upon the completion of a required preceding step. Each essential step is dictated by the date of the Primary Election.

The Election Law's structure being what it is, an August primary day is simply unworkable from a practical and logistical standpoint. An August primary is easily scheduled and administered on paper. The actual administration of such an election is quite a different matter.

The foundational goal of the MOVE Act is to ensure the participation of members of our Armed Forces and Americans living abroad (UOCAVA voters). To that end, local boards of election mail ballots to UOCAVA voters 45 days before a federal election. In 2012, the general election is scheduled to be held on November 6. UOCAVA general election ballots must therefore be mailed on or before September 22 (though likely September 21 as September 22 is a Saturday).

Before any general election ballots can be printed and mailed pursuant to the MOVE Act, the results of the primary election must be ascertained and the general election ballots certified. New York State Board of Election certification of the general election ballot must be completed 54 days before the general election and local certification 53 days before. This leaves eight days for the production, printing, preparation, and transmission of UOCAVA ballots to ensure MOVE Act compliance. Lawsuits, machine malfunctions, and counting of paper ballots in contested primaries all carry with them the potential to delay this all-important general election ballot certification. This problem is further exacerbated in an August 14 primary scenario. A June primary would go a long way towards mitigating some of these potential pitfalls and better ensure MOVE Act Compliance.

Logistical obstacles are also multiplied when considering an August. These include locating alternative polling sites to replace schools that are closed in July and August, identifying and training new election inspectors who may be away in August, and the inability to hold judicial conventions as currently mandated in statute.

The pendency of this issue before this Court and this Court's capacity to order a single primary for federal, state, and local offices notwithstanding, the Assembly asserts that we, along with our colleagues in the Senate, have a responsibility to make the law and policy determinations regarding the rescheduling of primary day. The concept of legislative prerogative supports such a proposition.

With the legislative session set to commence on January 4, 2012, and the Governor's ability to call a special session before that time, surely enough time remains before the start of a revised political calendar for to craft a legislative solution. Ballot access procedures connected to a fourth Tuesday in June Primary would begin on the last day of February.

The Assembly feels so strongly regarding the utter disruptiveness of an August primary that should this Court order one, we would then, as a last resort, be compelled to advocate for a separate state and local primary for September.

Thank you in advance for your careful consideration of the New York State Assembly's position on this very important matter.

Sincerely,

  
SHELDON SILVER  
Speaker

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA  
Plaintiffs,

Case No. 10-CV-1214  
Judge Gary L. Sharpe

v.

STATE OF NEW YORK, et al.  
Defendants.

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DECLARATION OF LAURA P. COSTELLO and JERRY O. EATON  
as OFFICERS OF THE NEW YORK STATE ELECTION COMMISSIONERS' ASSOCIATION

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*Pursuant to 28 U.S.C. § 1746, LAURA P. COSTELLO and JERRY O. EATON, each for him and herself, declare the following:*

1. LAURA P. COSTELLO is the President of the New York State Election Commissioner's Association (hereinafter "ECASNY"), and JERRY O. EATON is the First Vice-President of the NYSECA, and as such submit this declaration.

2. ECASNY is a bipartisan organization consisting of the respective two election commissioners from each of New York State's 62 counties. The Preamble to ECASNY's By-Laws provides that ECASNY is dedicated to the following precepts: The preservation of the integrity of the ballot; the easiest possible access to the ballot by the voters; programs to promote greater voter participation; promotion and enactment of laws for the more effective conduct and administration of elections within the State of New York; the enactment of laws that guarantee the voting public fair, open and honest elections.

3. It is the county election commissioners, acting in their official capacity, and their boards of elections that have the ultimate responsibility to meet the 45 day pre-election ballot transmission requirement of the Military and Overseas Voting (MOVE) Act.

4. Long before the US Department of Justice (DOJ) brought this supplemental application for compliance, the ECASNY at its January 25, 2011 meeting voted overwhelmingly to recommend to the New York State Legislature and the Governor that in light of the MOVE Act, the date for New York's primary should be moved from the second Tuesday in September to the fourth Tuesday in June. A June primary allows meaningful compliance with the federal MOVE Act and ensures enough time between the primary election and general election to resolve ballot access disputes and create and test ballot accuracy. (See March 8, 2011 letter to Speaker Silver and attached October 3, 2011 communication to Judge Sharpe previously sent to the Court).

5. While an August Primary date may work on paper, experience has shown that a late primary will likely produce late primary certifications that would still preclude our ability to get our military and special federal voters their general election absentee ballots in a timely fashion.

6. The main issue is the ability to finalize the general election ballots early enough to permit sufficient time to draft the ballots, translate, proof, produce and timely transmit accurate ballots to all military and special federal voters in compliance with the MOVE Act.

7. We respectfully remind the Court that under New York State Election Law, a military voter is entitled to a ballot which includes all local races and propositions which further complicates the creation of the military ballot in a timely fashion. Military voters deserve no less and we support that determination.

8. Simply moving the date to conduct the Primary election 3 to 4 weeks earlier doesn't resolve all of the issues impacting timely military and special federal ballot transmission. As set forth in our October 3<sup>rd</sup> letter and proposed calendar, a realistic time period to conduct post-primary election canvass, recanvass and audit requirements is 21 days after the primary election for counties outside of NYC and 28 days after the primary election in New York City, rather than the existing 15 days election law mandates. Also, the MOVE Act requirement to transmit the ballots no later than 45 days before the general election is 14 days earlier (45<sup>th</sup> day falls on a Saturday and is moved earlier to Friday) than the current NYS Election Law mandate of 32 days before.

9. A prime example of post primary election delays which affect the county boards of Elections' ability to get out military and special federal absentee ballots is the history of this litigation. In 2010, under an Order from this Court to get military and special federal ballots out by October 10<sup>th</sup>, (26 days after the September 14<sup>th</sup> Primary Election), thirteen county boards of elections were unable to do so despite their best efforts.

10. In most instances the delay is occasioned by state court litigation directed at the primary election or other ballot access issues. Additionally, the New York State Election Law allows an otherwise late declination where the candidate is subsequently nominated for a different office (for example, a nomination from a judicial convention held 7 to 13 days after the primary is the basis for the declination of prior nominations). The next issue in this scenario is the time afforded for the substitution of the new candidate for the declined nomination which is now vacant.

11. In contested primaries when there are administrative or judicial challenges to; the machine count, the right of voters who cast affidavit (provisional) ballots, the absentee ballots themselves, as well as the propriety of the county board of elections having issued the absentee ballot, and the canvass and recanvass of such election, the timely completion of the essential tasks

necessary to certify a winner impacts the time required to prepare and transmit military and special federal absentee ballots.

12. In a United States Senate or congressional district race such challenges would constitute a major issue and would take considerable time to resolve. We believe, based upon our hands-on experience, that a time frame in excess of the 25 days is required between the last date to conduct the August 2012 Primary Election (as provided in the DOJ proposed order) and the time frame we believe necessary for the date upon which the New York State Board of Elections (NYSBOE) to finalize the candidates to appear on the general election ballot while still affording the county boards of elections sufficient time to meet the 53-day pre-general election deadline referenced in our letter to the court and proposed calendar.

13. The United States Senate seat and 16 of the current 29 congressional district boundaries extend beyond a single county. As such, the county boards of elections must complete their post-primary election canvass and certification processes and forward completed results to the NYSBOE which has the responsibility to aggregate the vote totals and certify the winners. The federal election ballot certification is sent by the NYSBOE to the county boards of elections where the task of building ballot styles begins. This process is much more complicated than might appear to those not familiar with the process in order to assure that the correct combination of candidates appears on the ballot for each election district within the county, and that these same candidates for the same election districts are properly coded into the software that formats the ballot scanning devices and the ballot marking devices. In addition, many counties are required to translate the ballot into additional languages. The ballot marking devices must also include audio that verbally lists the name of each candidate for those voters who use the audio ballot feature of the ballot

marking devices. State regulations and proper election administration practices require that there be thorough logic and accuracy testing of the set-up of each machine prior to each election event.

14. The date for determination of Primary winners is critical. As set forth in our calendar, the NYSBOE certification of the candidates to appear on the general election ballot must be completed 54 days before the general election with local certification 53 days before. This time frame allows eight days for the production, printing, preparation and transmission of the military and special federal ballots to enable full compliance with the 45 day pre-election deadline.

15. In order for the NYSBOE to meet its 54 day pre-general election deadline, all certified primary election results must be received at the NYSBOE in sufficient time before the 54 day pre-election deadline to allow it to complete the aggregation of primary election results, determine the primary election winners and certify the general election candidates and offices.

16. Experience has shown that this entire process is frequently interrupted by candidates who obtain state court injunctions which slow the process and preclude the act of certification of the contested nomination pending the determination of such litigation.

17. Setting aside timing issues discussed above, there are logistical considerations that favor a June as opposed to August primary. A significant number, if not a majority, of polling locations are situated in schools. Those schools are largely unstaffed or closed during the summer months of July and August. Many school buildings are also not air conditioned and inspectors working 17 hour days during the hottest month of the year in those conditions may prove intolerable.

18. Running a primary election requires a large number of trained election inspectors and related essential temporary election workers. A significant number of such individuals vacation with their families during the traditional summer months of July and August.

19 Other obstacles are raised should the federal primary be held in August and the state primary remain in September including: the need for two general election absentee ballots for use by military voters, the added \$50 million expense to conduct an additional primary election, the overlapping responsibility for the boards of elections to complete critical state primary election day and post-primary election day requirements during the same time period immediately leading up to the general election MOVE Act absentee ballot transmission mandate, and confusion to voters that three primary elections and a general election in such close proximity will create.

20. Splitting the primaries by requiring either a June or August federal office primary and maintaining state office September primary election will require two absentee ballots to be provided to military voters; a federal office ballot transmitted no later than 45 days (September 22<sup>nd</sup>) before the general election containing candidates for federal offices, and a state and local office ballot transmitted in accordance with New York State Election Law no later than 32 days before the general election. New York State Election Law provides for military voters to be able to vote for both federal level candidates and state/local level candidates and proposals.

21. Such dual sending of military ballots will also require the county boards of election to track the transmission and receipt of such ballots and file multiple ballots for each voter returning both ballots. Existing absentee ballot computer management systems do not readily accommodate such tracking. Such dual ballots will also increase voter confusion and county board of election staff confusion that could possibly lead to voter disenfranchisement.

22. Further conflict occurs as the absentee ballot computer management systems will need to complete recording information relative to such voters only eligible to vote in the September 11<sup>th</sup> state office primary election, but also be updated to record information relative to

the voters qualified to receive a general election federal absentee ballot just 11 days after the September 11<sup>th</sup> state office primary election.

23. It will cost an estimated \$50 million in added expense to conduct both a federal office primary election and a state office primary election. This will include the dual expense for poll site rent, inspector and other election worker pay, voting system election programming, logic and accuracy testing, transportation cost and the expense to print and mail absentee ballots and print election day ballots. There are added expenses to county boards of elections to pay overtime and hire and train additional temporary workers which would be necessary to complete each respective primary elections pre-election and post-election requirements, especially if the two primary elections are held in close proximity to one another.

24. Simply put, New York's electronic voting machines are programmed for each election. As part of that programming, the voting systems must be subjected to and pass logic and accuracy tests conducted after the various ballot styles are created, proofed and loaded into the machines. As we indicated in our October 3<sup>rd</sup> communication, all issues relative to the finalization of the *election day* ballots must be resolved 35 days before an election so that logic and accuracy testing can occur in an orderly fashion before the voting systems are sealed, prepared for shipping and shipped to the various polling locations in time for such use on election day.

25. As indicated in paragraph 8, it takes 28 days after the primary election for the NYC Board of Elections to complete its post-primary election requirements. That time period coupled with the 35 day pre-election requirement to finalize the *election day* ballot provides a 63 day period in between elections that is reasonably necessary to accommodate the clearing from the voting systems of the records of the previous primary election and the resetting, testing and certification of those same systems for use at the next election. Superimposing that 63 day period before the

State's local primary election date of September 11<sup>th</sup> and after the MOVE Act compliant April 24<sup>th</sup> Presidential Preference Primary would result in an available date range of June 26<sup>th</sup> to July 11<sup>th</sup> which dates fall 29 days after the Presidential Primary and at least 35 days before any new election could be conducted. For that available 16 day time window, a June 26<sup>th</sup> primary election is preferable as a July primary brings with it all of the poll site availability, machine delivery and staffing issues of an August primary, exacerbated by the July 4<sup>th</sup> holiday.

*I declare under penalty of perjury that the foregoing is true and correct.*

*Executed this 5<sup>th</sup> day of December 2011.*

  
LAURA P. COSTELLO

  
JERRY O. EATON



STATE OF NEW YORK  
SUPREME COURT : COUNTY OF STEUBEN

Index No. E2022-0116CV

TIM HARKENRIDER, GUY C. BROUGHT,  
LAWRENCE CANNING, PATRICIA CLARINO,  
GEORGE DOOHER, JR., STEVEN EVANS, LINDA  
FANTON, JERRY FISHMAN, JAY FRANTZ,  
LAWRENCE GARVEY, ALAN NEWPHEW,  
SUSAN ROWLEY, JOSEPHINE THOMAS, and  
MARIANNE VOLANTE,

Petitioners,

-against-

DECISION and ORDER

GOVERNOR KATHY HOCHUL, LIEUTENANT  
GOVERNOR AND PRESIDENT OF THE SENATE  
BRIAN A. BENJAMIN, SENATE MAJORITY LEADER  
AND PRESIDENT PRO TEMPORE OF THE SENATE  
ANDREA STEWART-COUSINS, SPEAKER OF THE  
ASSEMBLY CARL HEASTIE, NEW YORK STATE  
BOARD OF ELECTIONS, and THE NEW YORK STATE  
LEGISLATIVE TASK FORCE ON DEMOGRAPHIC  
RESEARCH AND REAPPORTIONMENT,

Respondents.

PRESENT: Hon. Patrick F. McAllister  
Acting Supreme Court Justice

The Petitioners, through their attorneys, are seeking to set aside the newly enacted congressional districts and senate districts. The Petitioners allege that the Respondents did not have the authority under the constitution to create the new congressional and senate districts as they did, and further that the Respondents engaged in prohibited gerrymandering when creating the districts. The Respondents oppose the Petitioners' application. The court heard oral argument on March 3, 2022. The court reserved decision pending further development of the record. The court heard testimony of several experts and final arguments were heard on March 31, 2022.

In making this Decision and Order the court has considered all the submissions made in this matter. To specifically innumerate them would needlessly waste pages of paper and lots of ink. The e-file system has them all enumerated.

Background:

Although it has been quite some time since one party controlled the Senate, the Assembly, and held the governorship, New York State has a long history of gerrymandering when it comes to the creation of new voting districts. Whichever major political party has been in power has used the creation of new voting districts to their own advantage and to the disadvantage of their opposition. The result was that 98% of incumbents were getting reelected before the constitutional amendment in 2014.

The scourge of gerrymandering is not unique to New York. In recent years the courts throughout the country have been called on to invalidate gerrymandered districts and to create new fairer districts. League of Women Voters v. Commonwealth, 178 AD3d 737 (Pa. 2018); League of Women Voters of Fla. v. Detzner, 172 So. 3d 363 (Fla. 2015); Rucho v. Common Cause, 204 L.Ed. 2d 931 (2019). In 2014, New York State took major steps to avoid being plagued by gerrymandering by amending Article III §§4 & 5 of the New York State Constitution. The 2020 census was the first time after the constitutional amendment that led New York to draw new districts. Therefore, this is a case of first impression in many respects.

Under New York's very old rule there was a district seat for each county, except for Hamilton County. The Federal Courts found that unconstitutional because some counties were sparsely populated resulting in the citizens of those counties receiving disproportionate representation as compared to the heavily populated counties. Reynolds v. Sims, 377 U.S. 533 (1964); In re Orans, 15 NY2d 339 (1965). The law was changed to create districts that were roughly equal in population. In doing so other redistricting criteria in the Constitution such as not crossing county lines were given less value. See, Wolpoff v. Cuomo, 80 NY2d 70 (1992).

In the past most redistricting challenges were heard in federal court. However, in Rucho v. Common Cause, 139 S.Ct. 2482 (2019) the court ruled that federal courts do not have the authority to strike down maps based on partisan gerrymandering. Hence, this action is brought in state supreme court.

The courts have recognized that redistricting requires a balancing of sometimes competing Federal and State Constitutional requirements. "The test is whether the Legislature has 'unduly departed' from the State Constitution's requirements regarding contiguity, compactness and integrity of counties (Matter of Schneider v. Rockefeller, 31 NY2d 420, 429) in its compliance with federal mandates. It is not our function to determine whether a plan can be worked out that is superior to that set up by the legislature. Our duty is, rather, to determine whether the legislative plan substantially complies with the Federal and State Constitutions." Wolpoff v. Cuomo, (*supra*. at 78). To again quote Wolpoff "This is no simple endeavor". "Balancing the myriad requirements imposed by both the State and the Federal Constitution is a function entrusted to the Legislature. It is not the role of this, or indeed any, court to second-guess the determinations of the Legislature, the elective representatives of the people in this regard. We are hesitant to substitute our own determination for that of the Legislature even if

we would have struck a slightly different balance on our own.” ” Wolpoff v. Cuomo, (supra. at 79).

Standing:

The Respondents challenge whether or not the Petitioners in this case have standing to bring this action since the various Petitioners live in only a small number of Congressional and State Senate Districts.

It is the law’s policy to only allow an aggrieved person to bring a lawsuit. One not affected by anything a would-be defendant has done or threatened to do ordinarily has no business suing. *New York Practice 6<sup>th</sup> Ed.* Seigel §136 Pg. 270.

Many of the prior redistricting challenges where the courts have found petitioners do not have standing were cases focused only on a particular district boundary. In those cases if the petitioner did not live in the district he/she did not have standing. The Petitioners in this case are challenging the entire process as being in violation of the Constitutionally prescribed method for redistricting and in particular that the Congressional and State Senate maps were drawn with a political bias that is contrary to the Constitution. In Dairylea Cooperative, Inc. v. Walkey, 38 NY2d 6 (1975) a milk distributor sought to challenge a Commissioner of Agriculture decision which granted a milk dealer license to another entity. The court found there was standing because the Plaintiff was in the “zone of interest.” Further, only when there is a clear lack of injury would standing be denied.

In Society of Plastics Industry, Inc. v. County of Suffolk, 77 NY2d 761 (1991) the court made clear that having an economic interest is not sufficient to find standing if the issue is a non-economic interest. In that case to have standing the Plaintiff needed to show non-economic issues such as environmental or aesthetic reasons to challenge the legislation.

If this court finds the method used in enacting these maps violated the Constitution this would not affect just a handful of districts, but in fact would effect every district in New York. It would be impractical to require someone from every district to serve as a Petitioner. Once one district is invalid it impacts neighboring districts. But if the entire process is invalidated then everyone is impacted. The court finds these Petitioners have standing.

The 2014 Constitutional Amendment:

The 2014 amendment to the New York Constitution includes both a provision to prohibit discrimination against racial or language minority voting groups and a prohibition against creating maps with partisan bias. The prohibition against discriminating against minority voting groups at the least encapsulated the requirements of the Federal Voting Rights Act, and according to many experts expanded their protection. That new provision is not currently being challenged. Therefore, the court will focus on the prohibition against partisan

bias and the process by which redistricting was to take place.

To tell how important the people considered the issue of partisan bias not only was Article III section 4 amended to add “Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties”, but the Constitutional process for redistricting was also revised to create an Independent Redistricting Committee (IRC), which was to create non-biased bipartisan maps. This provision creating an IRC was intended to take the creation of proposed redistricting maps out of the hands of a one-sided, partisan legislature as much as possible. This IRC committee was to consist of appointees as follows: two members by the temporary president of the senate, two members by the speaker of the assembly, two by the minority leader of the senate and two by the minority leader of the assembly, plus two additional members which were to be appointed, one by the Democratic committee members and one by the Republican committee members. NY Constitution Art. III §5-b. Although the word “compromise” is not used it is clear from reading the constitutional amendment that the people of the State of New York believed that nonpartisan maps agreed upon as a result of a compromise were the best way to avoid gerrymandering when redistricting. At the very least in the event one party controlled both the senate and the assembly the amended constitution required there to be both support from some of the Democrats on the committee and also by some of the Republicans on the committee in order for the redistricting plan to receive the minimum seven votes necessary for the plan to be submitted to the legislature for approval, and to the governor for signature. NY Constitution Art III §5-b(f).(1) reads as follows:

“In the event that the speaker of the assembly and the temporary president of the senate are members of the same political party, approval of a redistricting plan and implementing legislation by the commission for submission to the legislature **shall** require the vote in support of its approval by at least seven members including at least one member appointed by each of the legislative leaders.” (Emphasis added)

In 2022 the Democrats controlled both the senate and the assembly. Nevertheless, the IRC committee failed to come up with any plan that obtained the minimum seven votes. There was no plan that received bipartisan support. That eventuality was anticipated in the constitution and according to Art. III §5-b(g) the plan or plans receiving the highest vote were to be submitted to the legislature. The Democrat committee and the Republican committee each submitted their own plans known as Plan A and Plan B with an equal number of IRC votes, but only from their own respective subcommittees. The court heard limited testimony concerning both Plan A and Plan B and received copies of those plans as exhibits. Even though a few of the proposed districts seemed to be the same in both plans, the IRC was not able to come up with a bipartisan plan that received seven votes. Both Plan A and Plan B were submitted to the legislature and the legislature quickly rejected both plans. According to the amended constitution, the committee was then to submit to the legislature a second set of redistricting plans. NY Constitution Art. III §4(b).

In 2022 the committee never submitted a second revised redistricting proposal to the legislature. Hence, the legislature went ahead and in a few days drafted and passed their own redistricting maps. A couple of Democrats voted against the legislature's redistricting maps, but otherwise the legislation was passed along party lines. It is these Congressional and Senate redistricting maps that this court must review to determine whether they violate the state and/or federal constitutions.

Before analyzing the specifics of the redistricting plans that were passed, it is important to review what did not happen. The IRC committee never embraced the task of coming up with compromise plans. It was clear from the amended constitution that the people of the State of New York believed the best way to avoid partisan politics in drawing new district lines was for a small group to work together to come up with compromise plans that obtained some bipartisan support. The plans did not have to be unanimously approved by the members of the committee, but at least some members of each subcommittee had to support the plan. The court comes to this conclusion from the following:

1. The Constitution was amended to add Article III §4(c)(5) which now reads as follows:  
“Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties.” ;
2. The Constitution created an Independent Restricting Committee (IRC);
3. The IRC was constructed in such a way that neither political party would attain the seven votes necessary without bipartisan support;
4. The Constitution specifically reads that the approved plan had to have support from at least one appointee of each of the political leaders that appointed members to the IRC.
5. That even if the IRC plan was rejected it was the IRC and not the legislature that was authorized to draw a second set of revised maps.
6. That even if the second set of IRC maps was rejected, the legislature could only vary the enacted maps slightly from the IRC maps. There could be no more than a 2% deviation in any district according to the Redistricting Reform Act of 2012.
7. The people of the State of New York rejected the 2021 ballot proposal that would have authorized the legislature to draw the maps in the event the IRC was not able to come with maps.

By contrast the important constitutional amendment that protected racial and language minority voting groups from being discriminated against had only one provision. Article III §4(c)(1). There was no new committee appointed to insure that this amendment to the Constitution was carried out. The court can only conclude that the people of the State of New York thought the creation of a non-biased, nonpartisan IRC committee that must work together to arrive at bipartisan redistricting maps was crucial to avoid gerrymandering - and even though the legislature, under certain circumstances, had the power to create their own redistricting maps, the legislature would have been under scrutiny in rejecting two sets of proposed bi-partisan maps before drawing their own maps, a circumstance that would invite the wrath of the electorate. Further, the law only permits slight alterations of the IRC maps by the legislature.

The legislature is not free to ignore the IRC maps and develop their own.

In a democracy it is rare if ever that one party has all the right answers and all the right policies. A democracy works best when every responsible adult has a voice and when by listening to each other a compromise is worked out that incorporates part of everyone's opinion. Unfortunately, in recent years the idea of "compromise" has gotten the reputation as being something distasteful and something to be avoided. Yet compromise is the foundation upon which the United States Constitution, our political system, and our country was established. It is compromise that is the safest way to avoid the plague of partisan gerrymandering. If gerrymandering is allowed to occur then certain groups of voters will be discriminated against and become disenfranchised. Discrimination comes in many forms whether it be against ones race, sex, age, religion, political party or something else. The New York Constitution specifically says, "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 abridgment 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." Art. III §4(c)(1).

Gerrymandering discrimination hurts everyone because it tends to silence minority voices. Then none of us receives the benefit from the input of the silenced. Imagine a society where only Democrats are able to work on cancer research or only Republicans could be board certified as heart surgeons. Imagine all the accomplishments and discoveries that would never come to pass because the majority thought it best to eliminate minority positions or views. Lives and the common good are at stake. When we choose to ignore the benefits of compromise we not only hurt others, we hurt ourselves as well.

There is nothing in the constitution that permits the IRC to just throw up their collective hands. Courts are very familiar with juries who say "We can't come to an agreement" during deliberations. However, the more the court keeps requiring them to go back and try again the more likely they are to finally reach a consensus. It is rare for the court to end up with a hung jury. Here the IRC stopped working well before their deadline. What someone should have done was bring an action to compel the members of the IRC to continue their work or for the political sides of the legislatures that appointed 8 of the 10 members of the IRC to remove and replace any IRC member that did not embrace his/her constitutional role. NY Constitution Art III §5-b(a)(1)-(4). Then either the court could have compelled the IRC to work together until they came up with a plan or the IRC new members could develop new bipartisan maps. Instead the IRC was permitted to throw up their hands and the legislature stepped in. Does the Constitution permit the legislature to take over if the IRC fails to do it's job? By the Constitution the IRC's drop dead date for submitting a plan was February 28<sup>th</sup>. This action was commenced long before that deadline.

Under the “new” process that was put in place a committee (IRC) was formed to try to create a fair redistricting map. The committee had 4 Democrats, 4 Republicans and 2 people that could not be Democrats or Republicans. The Democrats chose 1 of the 2 and the Republicans chose the other. This year the committee met and considered a number of plans. The Democrats came up with a plan (Plan A) and the Republicans came up with a different plan (Plan B). The IRC could not come up with a compromise plan so both the Democrat and Republican plans were submitted to the legislature, although neither plan had obtained the required seven votes. Seven votes in favor of a plan were required since the Democrats control both the Senate and the Assembly. Both submitted plans were rejected by the legislature and sent back to the committee. The committee could not agree on anything different. They had a 15 day deadline but the IRC stopped working well before the deadline. So the legislature created it’s own map. The legislature’s plan differed significantly from either Plan A or Plan B submitted by the IRC.

Under the 2014 amendment the districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. Under constitutional criteria the maps must be compact, contiguous, of equal populations, avoid abridgment of racial or language minority voting rights, maintain cores, and not cross the boundary lines of pre-existing subdivisions such as counties, cities, towns and communities of interest and there was to be no partisan gerrymandering. “The anti-gerrymander provision of the State Constitution is found in article III. Section 4 requires that Senate districts ‘be in as compact form as practicable’ and ‘consist of contiguous territory’; and section 5 provides that Assembly districts shall be formed from ‘convenient and contiguous territory in as compact form as practicable. As we recognized in Matter of Orans, (15 NY2d 339, 351, supra), these constitutional requirements remain binding although they must be harmonized with the first principle of substantial equality of population among districts.” Schneider v. Rockefeller, 31 NY2d 420 (1972).

#### The Failed 2021 Constitutional Amendment and Subsequent 2021 Legislation:

The political powers realized that the redistricting compromise plan envisioned by our 2014 amended constitution had a flaw. The plan lacked a way to handle the contingency of the committee not coming up with a bipartisan plan(s). Thus another constitutional amendment was proposed and put before the voters in November of 2021, under which the legislature could create and the Governor enact its own redistricting plan in the event the IRC committee failed to carry out its constitutionally prescribed duties. This constitutional amendment was voted down by the people of the State of New York - Republicans, Democrats, and Independents alike. Just three (3) weeks later, the legislature enacted legislation signed by the governor giving themselves the power to do exactly what the people of the State of New York had just voted down three (3) weeks earlier. Even though the proposed 2021 Constitutional Amendment contained other new provisions, none were hot button issues. In part this decision will focus on that legislation that was enacted just three (3) weeks after the proposed 2021 Constitutional Amendment was voted down.

Redistricting Reform Act of 2012 (The 2% Rule):

Another key component of the Redistricting Reform Act of 2012 that directly impacts the subsequent 2014 constitutional amendment was that: **“Any amendments by the senate or assembly to a redistricting plan submitted by the independent redistricting commission, shall not affect more than two percent of the population of any district contained in such plan.”** Redistricting Reform Act of 2012 N.Y. Sess, Laws 17 §3. The currently enacted plans vary by more than 2% from either of the plans submitted by the IRC. The Respondents do not allege that the plans they developed adhere to the 2% modification limit of either IRC map that was submitted. The Respondents contend that the “Notwithstanding any other provision” language of the newly enacted 2021 legislation made it so the legislature was not bound by the 2% rule. Obviously, it could not be compared to a final IRC map as such a map was never submitted. The court finds the 2% variance rule was another important procedural check to avoid partisan gerrymandering. These current maps ignore that procedural requirement. In essence, the legislature through the 2021 legislation, freed themselves from the constitutional process and the 2% limitation.

Analysis:

The New York Constitution Article III §§4 & 5 describes the process for the creation of election districts. Unconsolidated Laws §4221 says the supreme court has the jurisdiction to hear a petition brought by any citizen that wishes to challenge the redistricting law. The court is mandated to give this case the highest priority. The court has 60 days in which to render a decision from when the petition was filed. The Petition was filed February 3, 2022 so a decision must be rendered by April 4, 2022. If the court finds the redistricting plans invalid the legislature shall have a reasonable opportunity to correct their deficiency. Art. III §5. The Petitioners contend that this provision should be ignored by the court because the legislature never properly had jurisdiction to create these maps in the first place, since the IRC never submitted a second map to be considered.

The Petitioners seek to have this court find the 2022 Congressional Map and the 2022 Senate Map to be void *ab initio*. The Petitioners allege the legislature lacked the constitutional authority to enact redistricting maps because the Constitution proscribed an exclusive process, which in 2022 was not followed.

Not only must this court interpret the redistricting process under the 2014 amendment to the Constitution, but must also determine whether or not the legislature had the authority to alter the constitutional process by passing the recent 2021 legislation, when granting that same legislative authority was voted down by the people of the State of New York in the 2021 proposed Constitutional Amendment three weeks earlier.

On the November, 2021 ballot there was a proposed constitutional amendment to Article III Section 4(b) of the New York State Constitution that would have added language that

in the event the IRC redistricting commission fails to vote on a redistricting plan and implementing legislation by the required deadline then each house should introduce a redistricting plan and implementing legislation. When the constitutional amendment was voted down by the People of the State of New York the legislature passed a 2021 amendment to the Redistricting Reform Act of 2012 Section 4 (a) & (c) to provide that if the commission does not vote on any redistricting plan for any reason the legislature shall draft redistricting maps and implementing legislation and submit it to the governor.

In challenging the recently enacted 2021 legislation this court must start with the presumption that the legislation is constitutional. Matter of Moran Towing Corp. v. Urbach, 99 NY2d 443 (2003). Further, facial constitutional challenges like this one are disfavored. Overstock.com, Inc. v. New York State Dept. of Taxation and Fin., 20 NY3d 586 (2013). A challenge to a duly enacted statute requires the challenger to satisfy the substantial burden of demonstrating that in every conceivable application the enacted law suffers wholesale constitutional impairment. Center for Jud. Accountability, Inc. v. Cuomo, 167 AD3d 1406 (Third Dept. 2018); appeal dismissed 33 NY3d 933 (2019). Basically the challenger must establish that there is no set of circumstances under which the legislation could be valid. Overstock.com, Inc. v. New York State Dept. of Taxation and Fin., (*supra*). This court must make every effort to interpret the statute in a manner that otherwise avoids a constitutional conflict. See, People v. Davidson, 27 NY3d 1083 (2016).

The Petitioners contend that the November, 2021 legislation not only amended the Redistricting Reform Act of 2012 but also created a second path for redistricting that is not in the constitution. The constitution envisions the redistricting process to occur through the IRC. Only after the IRC has twice submitted maps that are rejected by the Legislature does the Legislature take up the process. The Constitution uses such words as “**the**” and “**shall**” to indicate this was the way and the only way that redistricting maps were to be drawn.

The 2021 legislation purportedly revised the 2012 Redistricting Reform Act so that if the IRC fails for any reason to submit a plan then the legislature shall prepare their own redistricting maps. However, the legislature can not override a constitutional barrier by passing a new law. City of N.Y. v. N. Y. State Div. of Human Rights, 93 NY2d 768 at 774 (1999). Further, this 2021 legislation purportedly negated the 2% variance limitation if the legislature drafted their own maps.

This court finds that by enacting the legislation in November of 2021 the legislature made it substantially less likely that the IRC would ever submit a bipartisan plan when the senate, assembly and governorship are all controlled by the same political party. Since the senate and assembly leaders appoint four of the ten members of the IRC, these four members, and by extension the legislature, would essentially have carte blanche veto power to keep the vote below the seven votes necessary to pass such a bipartisan plan. The intent of the 2014 constitutional amendment is to have bipartisan maps drawn by the IRC commission submitted and passed by the legislature.

Some might argue that whether the IRC failed to twice submit bipartisan maps or whether they did submit bipartisan maps and the legislature voted them down twice that it doesn't make any difference; that the legislature had the power to step in under either scenario. However, this court sees a difference. In this case the Legislature can say the IRC did not come up with bipartisan maps so we had to act. The IRC was a scapegoat for the legislature. If on the other hand the constitutional process were followed, the legislature would be in the awkward political position of having to vote down two sets of proposed bipartisan redistricting maps before drafting their own maps, at the risk of raising the ire of the voters at the next election. In addition the legislature, in drafting their own maps, would be under pressure and scrutiny to adopt a good portion of the proposed bipartisan maps submitted by the IRC commission, and they would also be limited by the no more than 2% alteration rule. The conclusion is that the currently enacted maps would have been substantially different had the constitutional process been followed.

This court finds that the November, 2021 legislation which purported to authorize the legislature to act in the event the IRC failed to act was not a mere enactment of legislation to help clarify or implement the Constitution, but in fact substantially altered the Constitution. Alteration of the Constitution can only be done by constitutional amendment and as recently as November, 2021 the people rejected the constitutional amendment that would have granted the legislature such authority. Therefore, this court finds the recently enacted Congressional and Senate maps are unconstitutional. Further, the enacted maps are void *ab initio*. Under the currently constructed Constitution when the IRC failed to act and submit a second set of maps there is nothing the Legislature has the power to do. Therefore, the court will need to step in. The court would note that not only are the Congressional District Maps and Senate District Maps void but the Assembly District Maps are void *ab initio* as well. The same faulty process was used for all three maps. Therefore new maps will need to be prepared for the Assembly Districts as well.

The People of the State of New York have spoken clearly. First, in the 2014 Constitutional Amendment not only did the People include language to prevent gerrymandering, but they also set forth a process to attain bipartisan redistricting maps through the IRC. The People of the State of New York again spoke loudly when they soundly voted down the proposed 2021 Constitutional amendment that would have granted authority to the Legislature to bypass the IRC redistricting process.

Although the court has already stricken the enacted redistricting maps as unconstitutional the court will discuss the Petitioners' further argument that the congressional and senate redistricting maps were the result of partisan bias. The standard of proof is beyond a reasonable doubt.

When considering redistricting there are two fundamental federal law principles that apply. There is the Equal Protection Clause of the 14<sup>th</sup> Amendment and the Voting Rights Act. The Equal Protection clause requires districts to be composed of the same number of residents

or within acceptable variance thereof. The Voting Rights Act prohibits drawing lines that deny racial or language minorities a fair opportunity to elect a candidate of their choice. In addition to those federal requirements, the New York constitution adds several other factors which must be considered, including the district being contiguous, compact, drawn so as to not favor or disfavor an incumbent or a political party, trying to keep county and town boundaries within the same district, and trying to maintain the cores of prior districts. Because of the need to make districts equal in population it is not always possible to meet all of the other factors to be considered. Article III §4 (c) 1 - 5 list a number of factors which “shall” be considered. “**Shall**” is a requirement.

What is compactness? “Reapportionment is one area in which appearances do matter.” Shaw v. Reno, 509 U.S. 630 at 647 (1993). Compactness has been described in scientific terms as the extent to which a district’s geography is dispersed around its center. In practice many courts use the eyeball test. Bush v. Vera, 517 U.S. 952 at 959 (1996). The Petitioners in this case claim districts that look like snakes or are elongated over hundreds of miles violate the Constitutional requirement of compactness. What the courts have found is that “compactness” may vary depending on whether or not the issue is racial gerrymandering or dilution of vote cases. “Dramatically irregular shapes may have sufficient probative force to call for an explanation.” Shaw v. Reno, (*supra.* at 647); Karcher v. Daggett, 462 U.S. 725 at 755 (1983).

A contiguous district requires that all parts of the district be connected. This is usually measured by whether it is possible to travel to all parts of the district without ever leaving the district. In this case, some of these proposed districts you would need a boat to go from one section of the district to another, but at least you do not have to cross district lines, just County lines and other political boundaries.

According to the eyeball test there are some districts that don’t look like they are compact. They include Congressional Districts 1,2, 3, 7, 8, 10, 17, 18, 19, 22 and 24. However, the eyeball test is not proof beyond a reasonable doubt.

The preservation of the cores of prior districts. At least 11 states, including New York, include this as part of the criteria when drawing new maps. The likely theory behind this is that by maintaining continuity of districts you maintain continuity of the representation for the citizens within that group. Obviously, when the number of districts has to change it is impossible to fully comply with this criteria.

According to *Redistricting Law 2020* by Davis, Strigari, Underhill, Wice & Zamarripa 18 states have now included language prohibiting redistricting to be drawn with the intent of favoring or disfavoring an incumbent or a political party, with 12 other states currently in the process of adopting neither favoring or disfavoring language. This language was the new anti-gerrymandering requirement added by the 2014 New York Constitutional Amendment.

Although the Federal Courts no longer have the authority under the First and/or

Fourteenth Amendments to invalidate maps based on partisan gerrymandering, numerous states and state courts have been addressing these issues. Rucho v. Common Cause, (supra.). States have been addressing this through constitutional amendments, the appointments of independent commissions and by prohibiting the drawing of district lines for partisan advantage. Rucho v. Common Cause, (supra.). In recent years both Florida and Pennsylvania courts have found and overturned maps based on partisan gerrymandering. See, League of Women Voters of Pa. v. Commonwealth 644 PA 287 (2018); League of Women Voters of Fla. v. Detzner, 172 So. 3d 363 (2015). In both of these cases the courts interpreted their respective constitutional provision which prohibited redistricting with the intent to favor or disfavor a political party or an incumbent. In the 2014 Constitutional Amendment Art. III §4(c)(5) New York added “Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties.” The meaning of this portion of the constitution and how it applies to the recently enacted Congressional and State Senate maps is key. Courts have for a long time struggled with being able to adequately define a standard to apply in such situations. Everyone agrees that politics plays some part in redistricting. In Davis v. Bandemer, 478 U.S. 109 (1986). At what point does permissible partisanship become unfair or unconstitutional? How much is too much? Comm. for a Fair & Balanced Map v. Ill. State Bd. of Elections, No. 11 C 5065 2011 U.S. Dist. LEXIS 117656 (2011).

In this case the Petitioners have presented expert testimony through Shawn Trende indicating that he ran at first 5,000 and then 10,000 potentially unbiased simulated redistricting maps. Respondents’ expert Michael Barber testified he ran 50,000 maps attempting to duplicate Trende’s maps. Trende and Barber’s maps came up with the same results. The result according to Trende’s Gerrymandering Index was that the maps adopted by the Legislature and signed by Governor Hochul were the most favorable to Democrats of any of the sample maps. Barber disagreed with Trende’s use of a Gerrymandering Index and concluded that the enacted maps actually favored Republicans. Likewise, Respondents other experts came to the conclusion that the enacted maps actually favored Republicans. The court finds it strains credulity that a Democrat Assembly, Democrat Senate, and Democrat Governor would knowingly pass maps favoring Republicans. Petitioners had two experts testify and Respondents had five experts testify. However, it is not the number of experts that is determinative but the quality and credibility of the expert testimony.

The Respondents’ expert attempted to discredit Trende’s analysis by claiming that a large percentage of Trende’s simulated maps are redundant in that the maps essentially show the same boundaries. It is claimed that as many as one half to three-fourths of the simulated maps are duplicative. Therefore, it was argued that Trende should have eliminated the duplicates as he did when addressing Maryland maps. Duplication or redundancy is claimed to be a common problem with this type of simulation. However, Trende ultimately did 10,000 simulated maps which could be reduced to 2,500 simulated maps if three quarters were redundant maps and were eliminated. Even under this analysis the enacted maps are the worst of 2,500 simulated maps, ie the worst of the worst.

What all the experts agreed upon was that the enacted congressional map would likely lead to the Republicans winning four Congressional seats. The Republicans currently hold 8 of the 27 congressional seats. A majority of the 5,000, 10,000 or 50,000 unbiased maps would have the Republicans winning less than four seats if you use 50.01% Democrats in a given district as the standard for which way a given district is likely to elect a Democrat or a Republican. Thus the Partisan Index used by the Respondents experts conclude the enacted maps favors Republicans because they are likely to receive four seats. However, both Trende and Respondents' expert, Jonathan Katz, testified that historically the Republicans win a district up to 52% Democrat and that incumbent Republicans enjoy an additional 3%, which means the districts would have to be at least 55% Democrats for the Democrats to actually win. The enacted maps gives the Democrats at least 55% in every district except the four that are Republican leaning. Obviously actual elections vary but as a general rule that is what the reliable historical data shows. What Trende's report shows is that the first four districts heavily lean toward the Republicans. See Trende's Gerrymandering Index (graphs pgs. 14 & 15 of the Expert Report dated February 14, 2021). However, in the enacted plans congressional seats 5 - 13 not only favor Democrats but show 55% or higher Democrats in those districts making them noncompetitive and virtually impossible for a Republican to win. However, in the "unbiased" sampling by Trende and Barber as few as 2 seats heavily favor Republicans, but in sample districts 3 - 13, while the Democrats were favored in those samples, their advantage was in most cases substantially less than 55% Democrat leaning and in many cases less than 52% Democrat leaning. That would mean these districts would be competitive and if historical data is accurate would likely result in several of those seats going to Republicans.

The Respondents' experts claim that the Gerrymandering Index should not be recognized by the court. The Petitioners cite Szeliga v. Lamone, C-02-CV-21-001816, a recent Maryland case (March 25, 2022) that recognized the Gerrymandering Index as proof that the maps were biased.

What is clear from the testimony of virtually every expert (Trende, Lavigna, Barber, and Katz) is that at least in the congressional redistricting maps the drawers packed Republicans into four districts thus cracking the Republican voters in neighboring districts and virtually guaranteeing Democrats winning 22 seats. In 5,000, 10,000 or 50,000 unbiased computer drawn maps there were several, and perhaps as many as 10 competitive districts. The enacted congressional map shows virtually zero competitive districts. Trende concludes and the court agrees that this shows political bias. Katz and Barber agree with Trende that creating districts with no competitive districts is a potential sign of political bias. However, both Katz and Barber conclude there is no bias since Republicans are likely to win four seats; and that four seats is higher than most of the projected wins assuming the Democrats win every district that is at least 50.01 % Democrat leaning which is what the Partisan Index is designed to depict.

The court finds that Trende's maps, and those drawn by Katz and by Barber, do not include every constitutional consideration. Katz and Barber testified they attempted to duplicate the maps drawn by Trende using the same variables used by Trende. However, none

of Respondents' experts attempted to draw computer generated maps using all the constitutionally required considerations. Katz said to do so would have significantly increased the time it would take to draw the maps. Both Katz and Barber thought that by including every constitutional consideration the maps would have been different, but they could not say how or by how much they would have differed. If they had done so and could thus demonstrate that the additional constitutional factors not considered in Trende's maps cause a representative sample that differed appreciably from Trende's sample then the court could have considered those maps against the enacted map to see whether or not the same political bias was shown. Since no such computer generated maps were provided to the court the court must use the evidence before it.

According to Rucho (*supra.*) the fundamental difficulty in formulating a standard to adjudicate whether or not partisan gerrymandering has occurred is for the court to determine what is "fair". Is fairness formulating a greater number of competitive districts? Whitford v. Gill, 218 F. Supp.3rd 837 (W.D. Wis 2016). Does fairness require as many safe seats for each party as possible? Davis v. Brademer, 478 U.S. 109 (1986). This court concludes that generating a map that significantly reduces the number of competitive seats is a clear sign of bias.

The court finds by clear evidence and beyond a reasonable doubt that the congressional map was unconstitutionally drawn with political bias in violation of Art. III §4(c)(5). One does not reach the worst of 2,500, 5,000, 10,000 or 50,000 maps by chance. Therefore, the court agrees with the Petitioners that the congressional map was unconstitutionally drawn with political bias in violation of Art. III §4(c)(5) of the New York Constitution.

The court will next consider the newly enacted senate map. The Petitioners presented credible evidence that this map also was gerrymandered. However, Todd Breitbart testified in-depth that many of the changes found between the 2012 enacted senate map and the 2022 enacted senate map were attempts by the legislature to correct malapportionment, and other constitutional deficiencies in the 2012 map. The court finds that testimony sufficiently credible. However, the court does not accept Breitbart's premise that the Republicans essentially gerrymandered the 2012 senate map since in 2012 the Assembly and Governorship were controlled by the Democrats and so the Republicans and Democrats had to work together to enact the maps. Therefore Petitioners could not show that the enacted 2022 senate map was drawn with political bias beyond a reasonable doubt. However, since this map was already struck down as void *ab initio* a new map will need to be drawn.

Having declared the recently enacted 2022 maps unconstitutional where do we go from here. It was clear from the testimony that not only is the 2012 congressional map not useable because New York State now only has 26 instead of 27 Congressional districts, but the 2012 senate map is also not useable because as a result of population shifts that map is now constitutionally malapportioned. Therefore, that leaves no maps. At this point in time, the candidates have been collecting signatures for over a month to get on the ballot for districts that

no longer exist. The end of the signature gathering process will occur within a few days. Yet Petitioners urge the court to have the parties quickly submit new maps and create new election time-lines so that the election can proceed on properly drawn redistricting maps that are free of partisan bias. The Respondents contend it is too late in the election cycle to try to draft new maps and then hold elections based on the new maps.

The Respondents point out that the U.S. Supreme Court has long ruled that Congressional elections can proceed even under defective lines. Merrill v. Milligan, 142 S. Ct. 879(2022); Abbott v. Perez, 138 S. Ct. 2305 (2018); Wells v. Rockefeller, 394 U.S. 542 (1969). In Wells v. Rockefeller the court faced a similar time deadline when on March 20, 1968 the primary election was three months away and yet the court permitted the election based on the redistricting maps that were constitutionally infirm, rather than delay the primaries and redraw the redistricting maps. Therefore, the Respondents urge this years election to proceed under the unconstitutional maps.

The Petitioners urge the court to strike down these constitutionally infirm maps and have new maps prepared. This of course will require revision of the election schedule since candidates would not even know what district he/she would run in before most of the current deadlines would have expired. The Petitioners urge moving the primary back to as late as August 23, 2022. The Petitioners cite other states that have recently moved their primaries to a later date because of challenges to the redistricting maps. See, Harper v. Hall, 865 S.E.2d 301, 302 (N.C. 2021); In re 2022 Legislative Districting of the State of Maryland, No. COA-MISC-0025-2021 (Md. Mar. 2022).

This court is well aware that this Decision and Order is only the beginning of the process and not the end of the process. There will likely be appeals to the Appellate Division and the Court of Appeals in addition to what ever time it takes to draw new maps. Then once the maps are drawn the County Boards of Election need time to apply the new redistricting maps to the precincts within their respective borders.

On March 3, 2022 when the court initially denied Petitioners application to stay the election process the court was not at all sure that the Petitioners could overcome the extremely high hurdle of demonstrating the maps violated the constitution. Thus, the court did not see a substantial likelihood for ultimate success by the Petitioners. Therefore the request for a temporary stay was denied. The court was also unaware of the prior courts ruling with regard to not permitting new elections in Congressional races in 2023 even when the maps were found to be unconstitutional. Having now determined that the various redistricting maps are unconstitutional the court is still concerned about the relatively brief time in which everything would need to happen to draw new maps, complete the appellate review process, revise the election process guidelines, and give the county election commissioners time to do their jobs.

However, this court's deadline of April 4, 2022 to make a decision was set by law (60 days to render a decision) in order to allow time for elections under newly drawn maps.

As the court sees it the drop dead date for sending out overseas military ballots is forty-five days before the November 8, 2022 general election. Thus, the ballots have to be finalized and mailed out no later than September 23, 2022. Between the primary election and that September 23<sup>rd</sup> date the votes have to be counted, the elections need to be certified, candidates need time to challenge election results, and the ballots need to be prepared. Thus, August 23, 2022 is the last possible date to hold a primary. An earlier August date would be preferred from the stand point of providing sufficient time from the holding of the primary to the completion of the November ballot. However, the same 45 day rule applies with regard to sending out overseas primary ballots. Thus, the primary ballots would have to be sent out no later than July 8, 2022. That only leaves about 100 days from today for the drawing of new maps, the candidates to gather signatures, the preparation of the primary ballots, the appellate review process, etc.

The court is mindful that in the Maryland case decided on March 25, 2022 that court threw out the recently enacted gerrymandered maps and ordered new maps to be drawn. This court finds that although it will be very difficult this court must require new maps to be drawn and the current maps are void and unusable. The court will leave it to the legislature and governor to develop new time frames for gathering signatures, how many signatures will be required to be on the ballot, whether signatures already gathered can be counted toward meeting the quota to appear of the ballot, etc.

N.Y. Constitution Art III §5 states as follows:

“In any judicial proceeding relating to redistricting of congressional or state legislative districts, any law establishing congressional or state legislative districts found to violate the provisions of this article shall be invalid in whole or in part. In the event that a court finds such a violation the legislature **shall** have a full and reasonable opportunity to correct the law’s legal infirmities.” (Emphasis added)

Therefore, the Constitution requires the Legislature to be given another chance to pass maps that do not violate the Constitution. Part of the problem is these maps were void *ab initio* for failure to follow the constitutional process of having bipartisan maps presented by the IRC. The second problem was the Congressional map that was presented was determined to be gerrymandered. The Legislature could correct the gerrymander issue, but they can not correct the constructional failure to have IRC present bipartisan maps for Congressional, State Senate, and State Assembly Districts. Therefore, the court will require any revised maps generated by the Legislature to receive bipartisan support among both Democrats and Republicans in both the senate and the assembly. The maps do not have to be unanimously approved, but they must enjoy a reasonable amount of bipartisan support to insure the constitutional process is protected. This they will need to do quickly. In Maryland the court gave their legislature 5 days in which to submit appropriate new maps for the court to review. The court will give the legislature until April 11, 2022 (which is slightly more time than they took to prepare the

enacted maps) to enact new bipartisan supported proposed maps that meet the constitutional requirements. This court will review those maps. If the maps do not receive bipartisan support or if no revised maps are submitted, then I will retain an expert at the States expense to draw new maps. Not only would the process be expensive it is possible that New York would not have a Congressional map in place that meets the Constitutional requirements in time for the primaries even with moving the primary date back to August 23, 2022.

NOW, therefore, upon consideration of all papers and proceedings heretofore had herein, and after due deliberation, it is

**ORDERED, ADJUDGED, and DECREED** the Petitioner are found to be in the zone of interest and therefore having standing to bring this action; and it is further

**ORDERED, ADJUDGED, and DECREED** that the Governor and Lt. Governor are necessary parties to this action; and it is further

**ORDERED, ADJUDGED, and DECREED** that the process used to enact the 2022 redistricting maps was unconstitutional and therefore void *ab initio*; and it is further

**ORDERED, ADJUDGED, and DECREED** that with regard to the enacted 2022 Congressional map the Petitioners were able to prove beyond a reasonable doubt that the map was enacted with political bias and thus in violation of the constitutional prohibition against gerrymandering under Article III Sections 4 and 5 of the Constitution; and it is further

**ORDERED, ADJUDGED, and DECREED** that the maps enacted by 2021-2022 N.Y. Reg. Sess. Leg. Bills S8196 and A.9039-A (as technically amended by A.9167) be, and are hereby found to be void and not usable; and it is further

**ORDERED, ADJUDGED, and DECREED** that the maps enacted by 2021-2022 N.Y. Reg. Sess. Leg. Bills S9040-A and A.9168 be, and are hereby found to be void and not usable; and it is further

**ORDERED, ADJUDGED, and DECREED** that congressional, state senate and state assembly maps that were enacted after the 2010 census are no longer valid due to unconstitutional malapportionment and therefore can not be used; and it is further

**ORDERED, ADJUDGED, and DECREED** that the legislation enacted in November, 2021 purporting to create a way to bypass the IRC is unconstitutional and in clear violation of the Peoples' express desire to not amend the Constitution to permit the Legislature to act in the event the IRC failed to submit maps; and it is further

**ORDERED, ADJUDGED, and DECREED** that the enacted legislation L. 2021 c. 633 §1 be and is hereby found to be void and not usable and shall be stricken from the books; and it

is further

**ORDERED, ADJUDGED, and DECREED** that the Petitioners and others have been injured as a result of the unconstitutional enacted maps; and it is further

**ORDERED, ADJUDGED, and DECREED** that in order to grant appropriate relief the court hereby grants to Petitioners a permanent injunction refraining and enjoining the Respondents, their agents, officers, and employees or others from using, applying, administering, enforcing or implementing any of the recently enacted 2022 maps for this or any other election in New York, included but not limited to the 2022 primary and general election for Congress, State Senate and State Assembly; and it is further

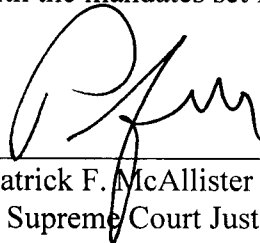
**ORDERED, ADJUDGED, and DECREED** that the Legislature shall have until April 11, 2022 to submit bipartisanly supported maps to this court for review of the Congressional District Maps, Senate District Maps, and Assembly District Maps that meet Constitutional requirements; and it is further

**ORDERED, ADJUDGED, and DECREED** that in the event the Legislature fails to submit maps that receive sufficient bipartisan support by April 11, 2022 the court will retain a neutral expert at State expense to prepare said maps; and it is further

**ORDERED, ADJUDGED, and DECREED** that any request for attorneys' fees and costs is denied; and it is further

**ORDERED, ADJUDGED, and DECREED** that this Court retains jurisdiction to issue any and all further orders which shall be necessary to comply with the mandates set forth herein.

Dated: March 31, 2022



Hon. Patrick F. McAllister  
Acting Supreme Court Justice

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# State of New York Court of Appeals

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## OPINION

This opinion is uncorrected and subject to revision  
before publication in the New York Reports.

No. 60  
In the Matter of Tim Harkenrider, et al.,  
Respondents-Appellants,  
v.  
Kathy Hochul, &c., et al.,  
Appellants-Respondents,  
et al.,  
Respondents.

Craig R. Bucki, for appellant-respondent Heastie.  
Eric Hecker, for appellant-respondent Stewart-Cousins.  
Jeffrey W. Lang, for appellants-respondents Hochul et al.  
Misha Tseytlin, for respondents-appellants.  
Campaign Legal Center et al.; League of Women Voters; Thomas F. O'Mara, et al.;  
Jamaal Bowman, et al., amici curiae.

DiFIORE, Chief Judge:

In 2014, the People of the State of New York amended the State Constitution to adopt historic reforms of the redistricting process by requiring, in a carefully structured process, the creation of electoral maps by an Independent Redistricting Commission (IRC)

and by declaring unconstitutional certain undemocratic practices such as partisan and racial gerrymandering. No one disputes that this year, during the first redistricting cycle to follow adoption of the 2014 amendments, the IRC and the legislature failed to follow the procedure commanded by the State Constitution. A stalemate within the IRC resulted in a breakdown in the mandatory process for submission of electoral maps to the legislature. The legislature responded by creating and enacting maps in a nontransparent manner controlled exclusively by the dominant political party — doing exactly what they would have done had the 2014 constitutional reforms never been passed. On these appeals, the primary questions before us are whether this failure to follow the prescribed constitutional procedure warrants invalidation of the legislature’s congressional and state senate maps and whether there is record support for the determination of both courts below that the district lines for congressional races were drawn with an unconstitutional partisan intent. We answer both questions in the affirmative and therefore declare the congressional and senate maps void. As a result, judicial oversight is required to facilitate the expeditious creation of constitutionally conforming maps for use in the 2022 election and to safeguard the constitutionally protected right of New Yorkers to a fair election.

## I.

Every ten years, following the federal census, reapportionment of the state senate, assembly, and congressional districts in New York must be undertaken to account for population shifts and potential changes in the state’s allocated number of congressional representatives (*see* NY Const, art III, § 4). Redistricting — which is “primarily the duty and responsibility of the State” (*Perry v Perez*, 565 US 388, 392 [2012] [internal quotation

marks and citation omitted]; *see Growe v Emison*, 507 US 25, 34 [1993]) — is a complex and contentious process that, historically, has been “within the legislative power . . . subject to constitutional regulation and limitation” (*Matter of Orans*, 15 NY2d 339, 352 [1965]). In New York, prior to 2012, the process of drawing district lines was entirely within the purview of the legislature,<sup>1</sup> subject to state and federal constitutional restraint and federal voting laws, as well as judicial review.

Particularly with respect to congressional maps, exclusive legislative control has repeatedly resulted in stalemates, with opposing political parties unable to reach consensus on district lines — often necessitating federal court involvement in the development of New York’s congressional maps (*see e.g. Favors v Cuomo*, 2012 WL 928223 \*2, 2012 US Dist LEXIS 36910, \*10 [ED NY, Mar. 19, 2012, No. 11-CV-5632, Raggi, Lynch, and Irizarry, JJ.]; *Rodriguez v Pataki*, 2002 WL 1058054, \*7, 2002 US Dist LEXIS, \*25-27 [SD NY 2002, May 24, 2002, No. 02 Civ. 618, Walker, Ch. J., Koeltl, and Berman, JJ.]; *Puerto Rican Legal Defense & Educ. Fund, Inc. v Gantt*, 796 F Supp 681, 684 [ED NY 1992]). Among other concerns, the redistricting process has been plagued with allegations of partisan gerrymandering — that is, one political party manipulating district lines in order to disproportionately increase its advantage in the upcoming elections, disenfranchising voters of the opposing party (*see generally Rucho v Common Cause*, 588 US —, 139 S Ct 2484, 2494 [2019]).

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<sup>1</sup> A legislative advisory task force on apportionment — created by statute and comprising lawmakers and staff selected by legislative leaders — conducted studies and proffered recommendations and proposed maps for the legislature’s consideration (*see* Legislative Law § 83-m; L 1978, ch 45, § 1).

By adopting the 2014 constitutional amendments, the People significantly altered both substantive standards governing the determination of district lines and the redistricting process established to achieve those standards. Given the history of legislative stalemates and persistent allegations of partisan gerrymandering, the constitutional reforms were intended to introduce a new era of bipartisanship and transparency through the creation of an independent redistricting commission and the adoption of additional limitations on legislative discretion in redistricting, including explicit prohibitions on partisan and racial gerrymandering (*see* Assembly Mem in Support, 2012 NY Senate-Assembly Concurrent Resolution S6698, A9526 Sponsor Memo, S2107). The Constitution now requires that the IRC — a bipartisan commission working under a constitutionally mandated timeline — is charged with the obligation of drawing a set of redistricting maps that, with appropriate implementing legislation, must be submitted to the legislature for a vote, without amendment (*see* NY Const, art III, § 4 [b]; § 5-b [a]).<sup>2</sup> If this first set of maps is rejected, the IRC is required to prepare a second set that, again, would be subject to an up or down vote by the legislature, without amendment (*see* NY Const, art III, § 4 [b]). Under that

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<sup>2</sup> Many other states have also turned to independent redistricting commissions to curtail partisan gerrymandering (*see e.g.* Ariz Const, art IV, pt. 2, § 1; Cal Const, art XXI, § 2; Colo Const, art V, §§ 44 44-48.4; Conn Const, art III, § 6; Haw Const, art IV, § 2; Idaho Const, art III, § 2; Me Const, art IV, part 3, § 1-A; Mich Const, art 4, § 6; Mont Const, art V, § 14; NJ Const, art II, § 2; Ohio Const, arts XI, XIX; Va Const, art II, § 6-A; Wash Const, art II, § 43). In upholding a state constitutional delegation of redistricting authority to an IRC, the United States Supreme Court has recognized that IRCs “generally draw their maps in a timely fashion and create districts both more competitive and more likely to survive legal challenge” and “have succeeded to a great degree [in limiting the conflict of interest implicit in legislative control over redistricting]” (*Arizona State Legislature v Arizona Independent Redistricting Comm’n*, 576 US 787, 798, 821 [2015] [internal quotation marks and citation omitted]).

constitutional framework, only upon rejection of a second set of IRC maps is the legislature free to offer amendments to the maps created by the IRC (*see* NY Const, art III, § 4 [b]) and, even then, a statutory restriction enacted as a companion to the constitutional reforms precluded legislative alterations that would affect more than two percent of the population in any district (*see* L 2012, ch 17, § 3).

## II.

Following receipt of the results of the 2020 federal census, the redistricting process began in New York — the first opportunity for district lines to be drawn under the new IRC procedures established by the 2014 constitutional amendments. Due to shifts in New York's population, the state lost a congressional seat and other districts were malapportioned, undisputedly rendering the 2012 congressional apportionment — developed by a federal court following a legislative impasse (*see Favors*, 2012 WL 928223, \*2, 2012 US Dist LEXIS 36910, \*10) — unconstitutional and necessitating the drawing of new district lines. Throughout 2021, the IRC held the requisite public hearings, gathering input from stakeholders and voters across the state to inform their composition of redistricting maps. In December 2021 and January 2022, however, negotiations between the IRC members deteriorated and the IRC, split along party lines, was unable to agree upon consensus maps. According to the IRC members appointed by the minority party, after agreement had been reached on many of the district lines, the majority party delegation of the IRC declined to continue negotiations on a consensus map, insisting they would proceed with discussions only if further negotiations were based on their preferred redistricting maps.

As a result of their disagreements, the IRC submitted, as a first set of maps, two proposed redistricting plans to the legislature — maps from each party delegation — as is constitutionally permitted if a single consensus map fails to garner sufficient votes (*see* NY Const, art III, § 5-b [g]). The legislature voted on this first set of plans without amendment as required by the Constitution and rejected both plans. The legislature notified the IRC of that rejection, triggering the IRC’s obligation to compose — within 15 days — a second redistricting plan for the legislature’s review (*see* NY Const, art III § 4 [b]). On January 24, 2022 — the day before the 15-day deadline but more than one month before the February 28, 2022 deadline— the IRC announced that it was deadlocked and, as a result, would not present a second plan to the legislature. Within a week, the Democrats in the legislature — in control of both the senate and assembly — composed and enacted new congressional, senate, and assembly redistricting maps (*see* 2022 NY Assembly Bill A9167, 2022 NY Senate Bill S8196, 2022 NY Assembly Bill A9039-A, 2022 NY Senate Bill S8172-A, 2022 NY Assembly Bill A9168, 2022 NY Senate Bill S8197, 2022 NY Senate Bill S8185-A, 2022 NY Assembly Bill A9040-A), undisputedly without any consultation or participation by the minority Republican Party.<sup>3</sup> On February 3rd, the Governor signed into law this new redistricting legislation, which also superseded the two

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<sup>3</sup> As one house of the legislature explained during this litigation, in their view “there [was no] reason for the Democratic super-majorities in both houses of the [l]egislature to seek ‘input or involvement’ from the Republican minorities” regarding the development of these legislative maps, characterizing such communications as inviting “time-wasting political theater” (App Div reply brief for respondent-appellant Senate Majority Leader, at 13).

percent limitation imposed in 2012 on the legislature's authority to amend IRC plans (Senate Introducer's Mem in Support, Bill Jacket, L 2012, ch 17, at 11).

That same day, petitioners — New York voters residing in several different congressional districts — commenced this special proceeding under Article III, § 5 of the State Constitution and Unconsolidated Laws § 4221 against various State respondents, including the Governor,<sup>4</sup> Senate Majority Leader, Speaker of the Assembly, and the New York State Board of Elections, challenging the congressional and senate maps. Petitioners alleged that the process by which the 2022 maps were enacted was constitutionally defective because the IRC failed to submit a second redistricting plan as required under the 2014 constitutional amendments and, as such, the legislature lacked authority to compose and enact its own plan. Petitioners also asserted that the congressional map is unconstitutionally gerrymandered in favor of the majority party because it both “packed” minority-party voters into a select few districts and “cracked” other pockets of those voters across multiple districts, thereby diluting the competitiveness of those districts. Petitioners asked Supreme Court to enjoin any elections from proceeding on the 2022 congressional map and to either adopt its own map or direct the legislature to cure the infirmities. Petitioners subsequently sought to amend their petition to include similar challenges to the state senate map. The State respondents answered that petitioners lacked standing to challenge most of the districts they claimed were gerrymandered, that the IRC's failure to

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<sup>4</sup> Notwithstanding respondent Governor's contentions to the contrary, any petition challenging redistricting legislation must be served upon the Attorney-General, President of the Senate, Speaker of the Assembly and the Governor, who are proper parties to this proceeding (*see* Uncons Laws § 4221).

perform its duty did not strip the legislature of its enduring authority to enact redistricting plans, and that petitioners could not meet their burden of proving that the maps were unconstitutionally partisan.

A trial ensued, at which petitioners and the State respondents presented expert testimony regarding the maps. Petitioners' expert, Sean P. Trende — a doctoral candidate who has a juris doctorate, a master's degree in political science, and a master's degree in applied statistics, and who has participated as an expert in several redistricting proceedings in other states — was qualified as an expert in election analysis with particular knowledge in redistricting, with no objection from the State respondents or any request for a *Frye* hearing to challenge the efficacy of his methodology or the basis of his opinion. Trende testified that a comparison of the enacted congressional map to ensembles of 5,000 or 10,000 maps created by computer simulation revealed that the enacted map was an “extreme outlier” that likely reduced the number of Republican congressional seats from eight to four by “packing” Republican voters into four discrete districts and “cracking” Republican voter blocks across the remaining districts in such manner as to dilute the strength of their vote and render such districts noncompetitive.

Opposing experts called by the State respondents challenged Trende's methodology and asserted that the enacted congressional map actually resulted in more Republican districts than the simulated maps, although several conceded that they did not analyze the level of competitiveness of the new districts. Further, the State's experts defended various choices made by the legislature as justifiable based on constitutionally required considerations, contending that the enacted maps were not reflective of partisan intent.

After determining petitioners had standing to challenge the statewide maps, Supreme Court declared the congressional, state senate, and state assembly maps “void” under the State Constitution, reasoning that the legislature’s enactment of redistricting maps absent submission of a second redistricting plan by the IRC was unconstitutional and that 2021 legislation purporting to authorize the enactment (“the 2021 legislation”) was also unconstitutional. Further, crediting Trende’s testimony, Supreme Court found that petitioners had proven that the congressional map violated the constitutional prohibition on partisan gerrymandering by packing republican voters into four districts while ensuring there were “virtually zero competitive districts.” Supreme Court declared all three maps void, enjoined the State respondents from using the maps in the impending 2022 election, and directed the legislature to submit new “bipartisanly-supported” maps that meet constitutional requirements for the court’s review by a particular date.

The State respondents appealed, and a Justice of the Appellate Division stayed much of Supreme Court’s order pending that appeal, including the deadline for submission of new redistricting maps by the legislature. However, the stay order did not prohibit Supreme Court from retaining a neutral expert to prepare a proposed new congressional map, which would have no force and effect until certain contingencies occurred, including the legislature’s failure to proffer its own new congressional maps by April 30th — 30 days after the date of Supreme Court’s order.<sup>5</sup> Thereafter, in a divided decision, the Appellate

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<sup>5</sup> Supreme Court also analyzed whether the state senate map was an unconstitutional partisan gerrymander after granting petitioners’ request to amend the petition to challenge the senate map but concluded petitioners did not meet their burden of proof on such claim. Petitioners have not sought review of that determination.

Division modified Supreme Court’s order by denying the petition, in part, vacating the declaration that the senate and assembly maps and the 2021 legislation were unconstitutional, but otherwise affirmed and remitted, with three Justices agreeing with Supreme Court that petitioners had met their burden of proving that the constitutional prohibition against partisan gerrymandering had been violated with respect to the 2022 congressional map, rendering that map void and unenforceable (— AD3d —, 2022 NY Slip Op 02648 [4th Dept 2022]).<sup>6</sup> In reaching that conclusion, the Appellate Division relied on “evidence of the largely one-party process used to enact the 2022 congressional map, a comparison of the 2022 congressional map to the 2012 congressional map, and the expert opinion and supporting analysis of Sean P. Trende” (*id.* at \*3). However, the Court rejected petitioners’ argument that both the congressional and senate maps were void due to the failure to adhere to the constitutional procedure, with one Justice dissenting on that point. The parties now cross appeal as of right (*see* CPLR 5601 [b] [1]), challenging certain aspects of the Appellate Division order.

### III.

As a threshold matter, relying on common law standing principles, the State respondents assert that petitioners lack standing to challenge many of the districts that they claim reflect unconstitutional partisan gerrymandering because none of the individual

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<sup>6</sup> Supreme Court, as permitted by the stay, has procured the services of a neutral redistricting expert “to serve as special master to prepare and draw a new neutral, non-partisan [c]ongressional map” and has established a schedule by which the parties and other interested persons may submit commentary and proposed redistricting plans for consideration prior to a planned hearing. Petitioners and several interested parties have already proffered submissions to that court.

petitioners reside in those districts. Even absent the procedural challenge applicable to all districts, this contention is unavailing because standing is expressly conferred by constitution and statute. Article III, § 5 of the New York Constitution provides that “[a]n apportionment by the legislature, or other body, shall be subject to review by the supreme court, *at the suit of any citizen*, under such reasonable regulations as the legislature may prescribe” (NY Const art III, § 5 [emphasis added]; *see* 3 Rev Rec, 1894 NY Constitutional Convention at 987; *see Matter of Dowling*, 219 NY 44, 50 [1916]; *Schieffelin v Komfort*, 212 NY 520, 529 [1914]). Moreover, statutes may identify the class of persons entitled to challenge particular governmental action, relieving courts of the need to resolve the question under common law principles (*see Matter of Mental Hygiene Legal Serv. v Daniels*, 33 NY3d 44, 50 n 2 [2019]; *Society of Plastics Indus. v County of Suffolk*, 77 NY2d 761, 769 [1991]; *Wein v Comptroller of State of N.Y.*, 46 NY2d 394, 399 [1979]; *see e.g.* State Finance Law § 123) and, here, Unconsolidated Laws § 4221 likewise authorizes “any citizen” of the state to seek judicial review of a legislative act establishing electoral districts. We therefore turn to consideration of the merits of petitioners’ challenges to the 2022 redistricting maps.

Petitioners first assert that, in light of the lack of compliance by the IRC and the legislature with the procedures set forth in the Constitution, the legislature’s enactment of the 2022 redistricting maps contravened the Constitution. To conclude otherwise, petitioners contend, would be to render the 2014 amendments — touted as an important reform of the redistricting process — functionally meaningless. We agree.

Legislative enactments, including those implementing redistricting plans, are entitled to a “strong presumption of constitutionality” and redistricting legislation will be declared unconstitutional by the courts “only when it can be shown beyond reasonable doubt that it conflicts” with the Constitution after “every reasonable mode of reconciliation of the statute with the Constitution has been resorted to, and reconciliation has been found impossible” (*Matter of Wolpoff v Cuomo*, 80 NY2d 70, 78 [1992], quoting *Matter of Fay*, 291 NY 198, 207 [1943] [internal quotation marks omitted]; see *Cohen v Cuomo*, 19 NY3d 196, 201-202 [2012]). Nevertheless, invalidation of a legislative enactment is required when such act amounts to “a gross and deliberate violation of the plain intent of the Constitution and a disregard of its spirit and the purpose for which express limitations are included therein” (*Cohen*, 19 NY3d at 202, quoting *Matter of Sherrill v O’Brien*, 188 NY 185, 198 [1907]).

To determine whether the legislature’s 2022 enactment of redistricting legislation comports with the Constitution, our starting point must be the text thereof. “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” (*Matter of Sherrill*, 188 NY at 207; see *White v Cuomo*, — NY —, — 2022 NY Slip Op 01954, \* 5 [2022]; *Burton v New York State Dept. of Taxation & Fin.*, 25 NY3d 732, 739 [2015]; *Matter of Carey v Morton*, 297 NY 361, 366 [1948]). Upon careful review of the plain language of the Constitution and the history pertaining to the adoption of the 2014 reforms, it is evident that the legislature and the IRC deviated from the constitutionally mandated procedure.

From a procedural standpoint, the Constitution — as amended in 2014 — requires that, every ten years commencing in 2020, an “independent redistricting commission” comprising 10 members — eight of whom are appointed by the majority and minority leaders of the senate and assembly and the remaining two by those eight appointees — shall be established (*see* NY Const, art III, § 5-b [a]). The members must be a diverse group of registered voters and cannot be (or recently have been) members of the state or federal legislature, statewide elected officials, state officers or legislative employees, registered lobbyists, or political party chairmen, or the spouses of state or federal elected officials (*see* NY Const, art III, § 5-b [b], [c]).

Under the Constitution, the IRC must make its draft redistricting plans available to the public and hold no less than 12 public hearings throughout the state regarding proposals for redistricting, ensuring transparency and giving New Yorkers a voice in the redistricting process (*see* NY Const, art III, § 4 [c]). After considering public comments and working together across party lines to compose new redistricting lines, the IRC must submit its approved plan and implementing legislation to the legislature no later than January 15th in a redistricting year (*see* NY Const, art III, § 4 [b]), with the caveat that, if the IRC is unable to muster the requisite number of votes for a single plan, it must provide the legislature with each plan that “garnered the highest number of votes in support of its approval by the [IRC]” (NY Const, art III, § 5-b [g]). If the legislature rejects the IRC’s first plan, the Constitution requires the IRC to go back to the drawing board, work to reach consensus, and “prepare and submit to the legislature a second redistricting plan and the necessary implementing legislation” to the legislature within 15 days and in no case later than

February 28th (NY Const, art III, § 4 [b]). “If” the legislature fails to approve the second plan without amendment, the Constitution then directs that “each house shall introduce such implementing legislation” — a clear reference to the IRC’s second plan — with any amendments each house of the legislature deems necessary (NY Const, art III § 4 [b]). As a further safeguard against one party dominating redistricting, the Constitution dictates that the number of votes required for the IRC and legislature to approve a plan differs depending on whether the legislature is controlled by one political party or control of the houses are split between the parties (*see* NY Const, art III, §§ 4 [b] [1] – [3]; 5-b [f] [1], [2]).

The Redistricting Reform Act of 2012, legislation enacted in conjunction with the 2012 constitutional resolution, further provides as a matter of statutory law that “[a]ny amendments by the senate or assembly to a redistricting plan submitted by the [IRC] shall not affect more than two percent of the population of any district contained in such plan” (L 2012, ch 17, § 3). As the sponsor of the legislation explained, “[i]f the [IRC’s] second plan [was] also rejected . . . , each house may then amend *that plan* prior to approval except that such amendments . . . cannot affect more than two percent of the population of any district *in the commission’s plan*,” a limitation designed to “provide reasonable restrictions on the legislature’s changes to the commission’s plans” (Senate Introducer’s Mem in Support, Bill Jacket, L 2012, ch 17, at 15 [emphasis added]).

The plain language of Article III, § 4 dictates that the IRC “*shall* prepare” and “*shall* submit” to the legislature a redistricting plan with implementing legislation, that IRC plan “*shall* be voted upon, without amendment” by the legislature, and — in the event the first plan is rejected — the IRC “*shall* prepare and submit to the legislature a second

redistricting plan and the necessary implementing legislation,” which again “*shall* be voted upon, without amendment” (NY Const, art III, § 4 [b] [emphasis added]). “*If*” and only “*if*” that second plan is rejected, does the Constitution permit the legislature to introduce its own implementing legislation, “with any amendments” to the IRC plans deemed necessary that otherwise comply with constitutional directives (NY Const, art III, § 4 [b] [emphasis added]).

“In the construction of constitutional provisions, the language used, if plain and precise, should be given its full effect” and “[i]t must be presumed that its framers understood the force of the language used and, as well, the people who adopted it” (*People v Rathbone*, 145 NY 434, 438 [1895]). Our Constitution is “an instrument framed deliberately and with care, and adopted by the people as the organic law of the State” and, when interpreting it, we may “not allow for interstitial and interpretative gloss . . . by the other [b]ranches [of the government] that substantially alters the specified law-making regimen” set forth in the Constitution (*Matter of King v Cuomo*, 81 NY2d 247, 253 [1993]).

Article III, § 4 is permeated with language that, when given its full effect, permits the legislature to undertake the drawing of district lines *only* after two redistricting plans composed by the IRC have been duly considered and rejected.<sup>7</sup> Moreover, the text of section 4 contemplates that any redistricting act ultimately adopted must be founded upon a plan submitted by the IRC; in the event the IRC plan is rejected, the Constitution

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<sup>7</sup> Indeed, the description on the 2014 ballot informed voters considering whether to support the constitutional amendments that “the legislature may only amend the redistricting plan . . . if the commission’s plan is rejected twice by the legislature.”

authorizes “amendments” to such plan, not the wholesale drawing of entirely new maps (NY Const, art III, § 4 [b]; *see* NY Assembly Debate on Assembly Bill A9557 Mar. 15, 2012 at 39 [“The Constitutional amendment allows the (l)egislature to *amend* the plan submitted by the independent redistricting commission *if* the (l)egislature has twice rejected submitted plans” (emphasis added)]).<sup>8</sup>

Despite clear constitutional language, the State respondents posit that it is wrong to interpret the 2014 constitutional amendments as requiring two separate IRC plans as a precondition to the legislature’s exercise of its longstanding and historically unbridled authority to enact redistricting legislation.<sup>9</sup> They further rely on the 2021 legislation authorizing the legislature to move forward on redistricting even if the IRC fails to submit maps as permissibly filling a purported gap in the constitutional design. However, in

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<sup>8</sup> Judge Rivera’s contention that the IRC process was not violated because two sets of maps were simultaneously submitted by the IRC in the first round — one by the Democratic delegation and one by the Republican delegation — is remarkable. Under her view, this was the functional equivalent of the successive presentations required by the Constitution. Aside from being directly contrary to the text of the constitution, the intent of the People who adopted the 2014 reforms, and the relevant legislative history, such contention has not been advanced by any party before this Court, a reflection of its total lack of merit.

<sup>9</sup> In a reply brief submitted in the Appellate Division, one of the State respondents candidly acknowledged that the constitutional process was not followed here, asserting that “[e]veryone agrees” that the Constitution requires two rounds of IRC recommendations “and that the [l]egislature vote up or down on each Commission proposal without amendment before exercising its authority to make any amendments”; and “that nobody suggests that ‘the process’ is optional” (App Div reply brief for respondent-appellant Senate Majority Leader, at 2-3). Despite acknowledging the constitutional violation, however, they essentially view it as irrelevant because the legislature could ultimately have adopted its own maps through the amendment process following a properly completed IRC procedure. This view ignores the fact that procedural requirements matter and are imposed precisely because, as here, they safeguard substantive rights.

addition to being contrary to the text of the Constitution as we have explained, the State respondents' arguments are also belied by the purpose of the 2014 amendments and the relevant legislative history — including the legislature's own statements regarding the intent and effect of the 2014 constitutional reform effort.

Indeed, the State respondents studiously ignore events that gave rise to the 2014 amendments. During the previous redistricting cycle in 2012, the New York legislature was unable to reach agreement on legislation setting the congressional district lines and, as a result, a federal court ordered the adoption of a judicially-drafted congressional redistricting plan (*see Favors*, 2012 WL 928223, \*2, 2012 US Dist LEXIS 36910, \*10). While the 2012 legislature did agree on state senate and assembly maps, the proposed maps were widely criticized as a product of partisan gerrymandering, prompting the then-Governor to threaten to veto the plans absent a concrete legislative commitment to redistricting reform (*see* Micah Altman & Michael P. McDonald, *A Half-Century of Virginia Redistricting Battles: Shifting from Rural Malapportionment to Voting Rights to Public Participation*, 47 U Rich L Rev 771, 829 [2013]; Thomas Kaplan, *An Update on New York Redistricting*, NY Times, March 7, 2012; Thomas Kaplan, *An Update on New York Redistricting*, NY Times, March 9, 2012). Thus, as we have discussed, in conjunction with enactment of the 2012 redistricting acts (*see* L 2012, ch 16), the legislature affirmed its commitment to redistricting reform by passing the Redistricting Reform Act of 2012 (*see* L 2012, ch 17) and the first of the two concurrent resolutions proposing the constitutional amendments creating the IRC process (*see* 2012 NY Assembly Bill A9526 [Mar. 11, 2012]). Characterizing the legislature's 2012 senate and assembly district lines

as “significantly flawed,” the Governor nevertheless approved the redistricting legislation that year in light of the legislature’s demonstrated agreement to “permanent[ly]” and “meaningful[ly]” reform the redistricting process for future years and “provide transparency to a process [otherwise] cloaked in secrecy and largely immune from legal challenges to partisan gerrymandering” (Governor’s Approval Mem, Bill Jacket, L 2012, ch 17 at 5; 2012 NY Legis Ann at 12-13).

As the surrounding context and history of the 2014 amendments illustrate, the constitutional amendments adopted by the two consecutive legislatures and the voters — from the provisions detailing the composition of the IRC to those setting forth the voting metrics — were carefully crafted to guarantee that redistricting maps have their origin in the collective and transparent work product of a bipartisan commission that is constitutionally required to pursue consensus to draw district lines. The procedural amendments — along with a novel *substantive* amendment of the State Constitution expressly prohibiting partisan gerrymandering, discussed further below — were enacted in response to criticism of the scourge of hyper-partisanship, which the United States Supreme Court has recognized as “incompatible with democratic principles” (*Arizona State Legislature v Arizona Independent Redistricting Comm’n*, 576 US at 791 [internal quotation marks, punctuation and citation omitted]).

As reflected in the legislative record, the IRC’s fulfillment of its constitutional obligations was unquestionably intended to operate as a necessary precondition to, and limitation on, the legislature’s exercise of its discretion in redistricting. The legislative record shows that the 2012 legislature — the drafters of the constitutional amendments —

intended to “comprehensively” reform and “implement historic changes to achieve a fair and readily transparent process” to “ensure that the drawing of legislative district lines in New York will be done by a bipartisan, independent body” — rather than entirely by the legislature itself (Assembly Mem in Support, 2012 NY Senate-Assembly Concurrent Resolution S6698, A9526; Sponsor’s Mem, 2013 NY Senate Bill S2107). As the sponsors explained, the reforms were designed to “substantively and fundamentally” alter the redistricting process, allowing “[f]or the first time, both the majority and minority parties in the legislature [to] have an equal role in the process of drawing lines,” with these “far-reaching” constitutional reforms touted as a template “for independent redistricting throughout the United States” (Assembly Mem in Support, 2013 NY Senate-Assembly Concurrent Resolution S2107, A2086).

The Senate debate indicates that the constitutional provision allowing the legislature to amend the second redistricting plan submitted by the IRC only after twice voting on and rejecting IRC plans was intended to encourage bipartisan participation by the legislature in the redistricting process. The Senate sponsor explained that “[o]n the third enactment, there could be amendments under this provision. But again, it would be the third time — not first time, not the second time, but the third time in order to get ultimately a product produced” (NY Senate Debate on AB2086, January 23, 2013 at 222). In other words, “[i]f there cannot be agreement, if the Governor vetoes the provision twice, . . . that third time the Legislature would be acting. But not until that time” (*id.* at 224) because “the intent of th[e] resolution [wa]s to have the Legislature act and vote on . . . a [second] plan” before undertaking any amendments of its own (*id.* at 226). Answering a charge that the IRC

would essentially be only “an advisory commission” since the legislature could ultimately reject both sets of IRC maps, the Senate sponsor explained that the IRC process was intended, in part, to impose consequences on the legislature for rejecting plans developed through a bipartisan process by forcing it to take a public position refusing to adopt district lines that were developed with an “enormous amount of citizen input” and effort (*id.* at 228).

It is no surprise, then, that the Constitution dictates that the IRC-based process for redistricting established therein “*shall* govern redistricting in this state *except* to the extent that a court is required to order the adoption of, or changes to, a redistricting plan as a remedy for a violation of law” (NY Const art III, § 4 [e] [emphasis added]). Contrary to the State respondents’ contentions, the detailed amendments leave no room for legislative discretion regarding the particulars of implementation; this is not a scenario where the Constitution fails to provide “specific guidance” or is “silen[t] on the issue” (*Cohen*, 19 NY3d at 200, 202). Under the 2014 amendments, compliance with the IRC process enshrined in the Constitution is the *exclusive* method of redistricting, absent court intervention following a violation of the law, incentivizing the legislature to encourage and support fair bipartisan participation and compromise throughout the redistricting process.<sup>10</sup>

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<sup>10</sup> The State respondents and Judge Rivera assert that giving force to the constitutional language risks gamesmanship by minority members of the IRC, claiming such members could potentially derail the redistricting process by refusing to participate. In giving effect to the constitutional reforms endorsed by the People of this state, our decision does not leave the legislature hostage to that body as Judge Rivera contends. Legislative leaders appoint a majority of the IRC members and, in the event those members fail either to appear at IRC meetings or to otherwise perform their constitutional duties, judicial intervention in the form of a mandamus proceeding, political pressure, more meaningful attempts at

That the IRC process was intended to operate as a limitation on the legislature’s power to compose district lines is further underscored by the Redistricting Reform Act of 2012 (*see* L 2012, ch 17). That legislation, adopted simultaneously with the 2012 constitutional resolution, instituted the two percent limitation on the legislature’s authority (*see* L 2012, ch 17, § 3). In describing this particular reform, the Sponsor of the bill explained that “[i]f the legislature fails to pass” the IRC’s second plan “it may then amend such plans and vote upon them as amended. However, any such amendments shall be limited . . . to affect no more than two percent of the population of any district in such plan” (Senate Introducer’s Mem in Support, Bill Jacket, L 2012, ch 17, at 11). Thus, although the legislature retains the ultimate authority to enact districting maps upon completion of the IRC process, the constitutional reforms were clearly intended to promote fairness, transparency, and bipartisanship by requiring, as a precondition to redistricting legislation, that the IRC fulfill a substantial and constitutionally required role in the map drawing process.<sup>11</sup>

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compromise, and possibly even replacement of members who fail to faithfully perform their duties, are among the many courses of action available to ensure the IRC process is completed as constitutionally intended. The IRC may not be a panacea, but to accept the crabbed description of that body proffered by the State respondents and Judge Rivera would be to render the body nothing more than “window dressing” masquerading as meaningful reform.

<sup>11</sup> In 2022 — the very first time that the legislature had occasion to implement the IRC procedure and the two percent rule (L 2012, ch 17, § 3) — that provision was disregarded. The legislature wholly superseded the two percent rule by prefacing the 2022 redistricting legislation with language indicating that such districts were enacted as provided therein “notwithstanding any other provision of law to the contrary” and providing that the new legislation “shall supersede any inconsistent provision of law including but not limited to”

Indeed, recent events suggest that the legislature itself recognized that the Constitution did not permit it to proceed with redistricting absent compliance with the bipartisan IRC process. Apparently forecasting that the IRC would not comply with its constitutional obligations, in the summer of 2021 — before the IRC had even been given a chance to fulfill its constitutional role — the legislature attempted to amend the constitution to add language authorizing it to introduce redistricting legislation “[i]f . . . the redistricting commission fails to vote on a redistricting plan and implementing legislation by the required deadline” for any reason (2021 NY Senate-Assembly Concurrent Resolution S515, A1916). After New York voters rejected this constitutional amendment (among others) — and with the first redistricting cycle since the 2014 amendments on the horizon — the legislature attempted to fill a purported “gap” in constitutional language by *statutorily* amending the IRC procedure in the same manner (*see* L 2021, ch 633). In this Court, the State respondents attempt to rely on the 2021 legislation to justify the deviation from constitutional requirements. Needless to say, the bipartisan process was placed in the State Constitution specifically to insulate it from capricious legislative action and to ensure permanent redistricting reform absent further amendment to the constitution, which has not occurred. The 2021 legislation is unconstitutional to the extent that it permits the legislature to avoid a central requirement of the reform amendments (*see Matter of King*, 81 NY2d at 252 [“The (l)egislature must be guided and governed in this particular function by the Constitution, not by a self-generated additive”]).

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the two percent rule (L 2022, chs 13, 14, 15, 16). Despite this attempted end run, however, the 2012 redistricting reform legislation provides relevant evidence of the drafters’ intent.

In sum, there can be no question that the drafters of the 2014 constitutional amendments and the voters of this state intended compliance with the IRC process to be a constitutionally required precondition to the legislature's enactment of redistricting legislation. In urging this Court to adopt their view that the IRC may abandon its constitutional mandate with no impact on the ultimate result and by contending that the legislature may seize upon such inaction to bypass the IRC process and compose its own redistricting maps with impunity, the State respondents ask us to effectively nullify the 2014 amendments. This we will not do. Indeed, such an approach would encourage partisans involved in the IRC process to avoid consensus, thereby permitting the legislature to step in and create new maps merely by engineering a stalemate at any stage of the IRC process, or even by failing to appoint members or withholding funding from the IRC. Through the 2014 amendments, the People of this state adopted substantial redistricting reforms aimed at ensuring that the starting point for redistricting legislation would be district lines proffered by a bipartisan commission following significant public participation, thereby ensuring each political party and all interested persons a voice in the composition of those lines. We decline to render the constitutional IRC process inconsequential in the manner requested by the State respondents, a result that would "violat[e] . . . the plain intent of the Constitution and . . . disregard [the] spirit and the purpose" of the 2014 constitutional amendments (*Cohen*, 19 NY3d at 202 [internal quotation marks and citation omitted]).

## IV.

Having addressed the procedural violation, we turn to the substantive partisan gerrymandering claim. As a threshold matter, despite our invalidation of the maps on procedural grounds, we nevertheless must determine on the State respondents' cross appeal whether the courts below properly declared that the congressional map was also substantively unconstitutional.<sup>12</sup>

In addition to the procedural amendments, in 2014, the People also amended the New York State Constitution to include certain substantive limitations on redistricting, including an express prohibition on partisan gerrymandering, commanding that “[d]istricts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties” (NY Const, art III, § 4 [c])

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<sup>12</sup> While we agree with Judge Troutman that this Court should not issue advisory opinions, her suggestion that no actual case or controversy is presented by the State respondents' appeal — here as of right on the substantial constitutional question of whether the Appellate Division erred in invalidating the congressional map on the ground of partisan gerrymandering — is quite extraordinary. Even if the State respondents were not otherwise entitled to review of the declaration that the apportionment legislation was infected by such invidious intent, there are substantial arguments before this Court concerning the proper remedy in the event of a constitutional violation — arguments that turn, in part, on whether the violation involved procedural or substantive constitutional provisions. The question of whether the congressional map amounts to a partisan gerrymander is also relevant to the issue of whether the primary election should be permitted to proceed on the maps drawn by the legislature, despite the determination of procedural unconstitutionality. Moreover, given our conclusion that new maps must be drawn in light of the procedural violation — a conclusion with which Judge Troutman agrees — resolution of the issue is critical to provide necessary guidance to inform the development of a new congressional map on remittal.

[5]).<sup>13</sup> This amendment was made in recognition that the practice of partisan gerrymandering “jeopardizes [t]he ordered working of our Republic, and of the democratic process” and, “[a]t its most extreme, the practice amounts to ‘rigging elections,’” which violates “the most fundamental of all democratic principles — that ‘the voters should choose their representatives, not the other way around’” (*Gill v Whitford*, — US — , 138 S Ct 1916, 1940 [2018], quoting *Arizona State Legislature*, 576 US at 824).

In this case, petitioners asserted that, along with being procedurally flawed, the 2022 congressional map enacted by the legislature violates the constitutional provision prohibiting partisan gerrymandering. To prevail on such claim, petitioners bore the burden of proving beyond a reasonable doubt that the congressional districts were drawn with a particular impermissible intent or motive — that is, to “discourage competition” or to “favor[] or disfavor[] incumbents or other particular candidates or political parties” (NY Const, art III, § 4 [c] [5]). Such invidious intent could be demonstrated directly or

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<sup>13</sup> The 2014 constitutional amendments also forbid racial gerrymandering, in a provision that similarly prohibits an invidious intent or motive, requiring that district lines “shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of” the voting rights of racial or minority language groups (NY Const, art III, § 4 [c] [1]). Other requirements added that year directed certain results, namely, that redistricting, to the extent possible, maintain cores of existing districts, pre-existing political subdivisions — such as counties, cities, and towns — and communities of interest (*see* NY Const, art III, § 4 [c] [5]). These requirements supplement the longstanding constitutional constraints on redistricting embodied in the State Constitution requiring, to the extent practical, that districts “contain as nearly as may be an equal number of inhabitants,” “consist of contiguous territory,” and be “as compact in form as practicable” (NY Const, art III, § 4 [c] [2] – [4]), and those required by federal law — such as conformity with the “one person, one vote” principle (*Abrams v Johnson*, 521 US 74, 98 [1997]; *see Wesberry v Sanders*, 376 US 1, 8 [1964]) and with the federal Voting Rights Act (*see generally* 52 USC § 10301).

circumstantially through proof of a partisan process excluding participation by the minority party and evidence of discriminatory results (i.e., lines that impactfully and unduly favor or disfavor a political party or reduce competition).

Here, at the conclusion of the non-jury trial, Supreme Court — based on the partisan process, the map enacted by the legislature itself, and the expert testimony proffered by petitioners — found by “clear evidence and beyond a reasonable doubt that the congressional map was unconstitutionally drawn with political bias” to “significantly reduce[]” the number of competitive districts. The Appellate Division affirmed, similarly drawing an inference of invidious partisan purpose based on “evidence of the largely one-party process used to enact the 2022 congressional map, a comparison of the 2022 congressional map to the 2012 congressional map, and the expert opinion and supporting analysis of Sean P. Trende,” finding that “the 2022 congressional map was drawn to discourage competition and favor democrats” (— AD3d at —, 2022 NY Slip Op 02648, \*4).

We reject respondents’ assertion that the evidence was legally insufficient to establish an unconstitutional partisan purpose. Viewing the evidence in the light most favorable to petitioners and drawing every inference in their favor, there is a “valid line of reasoning and permissible inferences” which could possibly lead [a] rational [factfinder] to the conclusion reached by the [factfinder] on the basis of the evidence presented at trial” (*Cohen v Hallmark Cards*, 45 NY2d 493, 499 [1978]). Moreover, where, as here, this Court is presented with affirmed findings of fact in a civil case, our review is limited to whether there is record support for those findings (*see Matter of Rittersporn v Sadowski*,

48 NY2d 619 [1979]). There is record support in the undisputed facts and evidence presented by petitioners for the affirmed finding that the 2022 congressional map was drawn to discourage competition. Indeed, several of the State respondents' experts, who urged the court to draw the contrary inference, concededly did not take into account the reduction in competitive districts. Thus, we find no basis to disturb the determination of the courts below (*see Matter of Rittersporn*, 48 NY2d at 619).<sup>14</sup>

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<sup>14</sup> Although purporting to treat the question as an issue of law, Judge Wilson impermissibly performs a weight of the evidence analysis, largely parroting the points in the State respondents' briefs. Tellingly, however, Judge Wilson repeatedly acknowledges that an inference of intent could rationally be drawn from proof in the record. Determining whether to draw such an inference when multiple inferences are possible is a quintessential function of a finder of fact and, here, the courts below — which, unlike this Court, possessed fact-finding authority — credited Trende's testimony. Contrary to Judge Wilson's contention, the burden of proof was not impermissibly shifted to the State respondents. As noted, respondents did not seek exclusion of Trende's testimony on the basis that his methodology or the computer algorithm on which he relied — drafted by a recognized expert and, according to Trende, a "state of the art" program repeatedly accepted by other courts — was insufficiently reliable. Although Trende did observe that the State respondents completely failed to refute any of his simulations with simulations of their own, he also responded substantively to the criticisms of his methodology. Trende explained that his map ensemble "perform[ed] comparably to the enacted plan in terms of compactness," "minority-majority districts," and county lines. He ran additional simulations, freezing municipalities kept intact by the enacted plan, freezing district cores, freezing every "ability-to-elect district," and even conceding the split in southeast Brooklyn to respondents. Trende testified that even when the simulations were run in a manner "incredibly generous" to the State respondents by "ced[ing] to [respondents] . . . a third of the districts drawn in New York," the simulations produced "the same basic output," showing the same cracking and packing patterns in the enacted maps. As even a short rendition of just some of the proof presented by petitioners demonstrates, Judge Wilson refuses to apply the proper standard of review, which — even in cases where the legal standard is proof beyond a reasonable doubt — requires that the evidence be viewed in the light most favorable to petitioners, the prevailing party at trial.

## V.

Based on the foregoing, the enactment of the congressional and senate maps by the legislature was procedurally unconstitutional, and the congressional map is also substantively unconstitutional as drawn with impermissible partisan purpose, leaving the state without constitutional district lines for use in the 2022 primary and general elections.<sup>15</sup> The parties dispute the proper remedy for these constitutional violations, with the State respondents arguing no remedy should be ordered for the 2022 election cycle because the election process for this year is already underway. In other words, the State respondents urge that the 2022 congressional and senate elections be conducted using the unconstitutional maps, deferring any remedy for a future election.<sup>16</sup> We reject this invitation to subject the People of this state to an election conducted pursuant to an unconstitutional reapportionment.

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<sup>15</sup> Inasmuch as petitioners neither sought invalidation of the 2022 state assembly redistricting legislation in their pleadings nor challenge in this Court the Appellate Division's vacatur of the relief granted by Supreme Court with respect to that map, we may not invalidate the assembly map despite its procedural infirmity.

<sup>16</sup> The State respondents' reliance on the federal *Purcell* principle is misplaced (*see Purcell v Gonzalez*, 549 US 1 [2006]). The *Purcell* doctrine cautions *federal* courts against interfering with state election laws when an election is imminent (*see Republican National Committee v Democratic National Committee*, 589 US —, —, 140 S Ct 1205, 1207 [2020]) and does not limit state judicial authority where, as here, a *state* court must intervene to remedy violations of the State Constitution. Indeed, most recently the principle was cited to justify the United States Supreme Court's decision not to disturb a state court order requiring alteration of North Carolina's existing congressional maps for the upcoming 2022 primary (*Moore v Harper*, 595 US —, 142 S Ct 1089, 1089 [2022, Kavanaugh, J., concurring in denial of application for stay]).

“The power of the judiciary of a State to require valid reapportionment or to formulate a valid redistricting plan has not only been recognized by [the United States Supreme] Court but appropriate action by the States in such cases has been specifically encouraged” (*Scott v Germano*, 381 US 407, 409 [1965]; *see Grove*, 507 US at 33).<sup>17</sup> Indeed, our State Constitution both requires expedited judicial review of redistricting challenges (*see* NY Const, art III, § 5) — as occurred here — and authorizes the judiciary to “order the adoption of, or changes to, a redistricting plan” in the absence of a constitutionally-viable legislative plan (NY Const, art III, § 4 [e]). Where, as here, legislative maps have been determined to be unenforceable, we are left in the same predicament as if no maps had been enacted. Prompt judicial intervention is both necessary and appropriate to guarantee the People’s right to a free and fair election.

We are cognizant of the logistical difficulties involved in preparing for and executing an election — and appreciate that rescheduling a primary election impacts administrative officials, candidates for public office, and the voters themselves. Like the courts below, however, we are not convinced that we have no choice but to allow the 2022 primary election to proceed on unconstitutionally enacted and gerrymandered maps. With judicial supervision and the support of a neutral expert designated a special master, there

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<sup>17</sup> A number of other state courts have been called upon to intervene in redistricting just this year (*see League of Women Voters of Ohio v Ohio Redistricting Commn.*, 2022-Ohio-789, — NE3d — [2022]; *Harper v Hall*, 2022-NCSC-17, ¶ 6, 868 SE2d 499, 510 [2022]; *Johnson v Wisconsin Elections Commn.*, 2022 WI 19, ¶ 3, — NW2d — [2022]; *Carter v Chapman*, 270 A3d 444, 450 [Pa 2022]).

is sufficient time for the adoption of new district lines.<sup>18</sup> Although it will likely be necessary to move the congressional and senate primary elections to August, New York routinely held a bifurcated primary until recently, with some primaries occurring as late as September. We are confident that, in consultation with the Board of Elections, Supreme Court can swiftly develop a schedule to facilitate an August primary election, allowing time for the adoption of new constitutional maps, the dissemination of correct information to voters, the completion of the petitioning process, and compliance with federal voting laws, including the Uniformed and Overseas Citizens Absentee Voting Act (*see* 52 USC § 20302).

Finally, the State respondents’ protest that the legislature must be provided a “full and reasonable opportunity to correct . . . legal infirmities” in redistricting legislation (NY Const, art III, § 5). The procedural unconstitutionality of the congressional and senate maps is, at this juncture, incapable of a legislative cure. The deadline in the Constitution

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<sup>18</sup> Delaying a remedy until the next election would substantially undermine the People’s efforts to temper partisan gerrymandering. Here, the legislature enacted maps within one week of the IRC’s abdication—which itself came more than a month before the Constitution’s outer end date for the IRC process—and petitioners commenced this proceeding on the same day. If there is insufficient time to order a remedy for the 2022 primary election under these circumstances, it is unlikely there would ever be sufficient time to challenge a redistricting plan and obtain relief before an upcoming primary election. Such a conclusion would be contrary to the Constitution, which contemplates that the IRC process may not be completed until February 28th (to be followed by legislative action) but nevertheless expressly authorizes expedited judicial review and modification or adoption of redistricting plans by the courts. Delaying a remedy in this election cycle — permitting an election to go forward on unconstitutional maps — would set a troubling precedent for future cases raising similar partisan gerrymandering claims, as well as other types of challenges, such as racial gerrymandering claims.

for the IRC to submit a second set of maps has long since passed.<sup>19</sup> Although the State respondents assert that, even following a constitutional violation, the legislature possesses exclusive jurisdiction and unrestricted power over redistricting, the Constitution explicitly authorizes judicial oversight of remedial action in the wake of a determination of unconstitutionality — a function familiar to the courts given their obligation to safeguard the constitutional rights of the People under our tripartite form of government. Thus, we endorse the procedure directed by Supreme Court to “order the adoption of . . . a redistricting plan” (NY Const, art III, § 4 [e]) with the assistance of a neutral expert, designated a special master, following submissions from the parties, the legislature, and any interested stakeholders who wish to be heard.<sup>20</sup>

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<sup>19</sup> To the extent the 2022 redistricting legislation, which we invalidate here, purported to render any court order “tentative” for a period of 30 days (L 2022, ch 13, § 3, [5] [i]) such a limitation on judicial authority appears inconsistent with (among other things) the constitutional provision authorizing judicial review without limitation and requiring “disposition” of the claim by Supreme Court within 60 days. The Constitution does not contemplate an advisory order. In any event, here, due to the procedural constitutional violations and the expiration of the outer February 28th constitutional deadline for IRC action, the legislature is incapable of unilaterally correcting the infirmity.

<sup>20</sup> While accusing this Court of “step[ping] out of its judicial role” (Troutman, J. dissenting in part op, at 2), Judge Troutman crafts a remedy that is neither consistent with the constitutional text nor requested by any of the parties to this proceeding. She proposes that the legislature should be directed to adopt one of the two plans submitted by the IRC and already rejected by the legislature (although she does not specify which one). Judge Troutman’s position is incongruous; she agrees that the legislature lacked authority to enact redistricting legislation absent a second submission from the IRC but, paradoxically, she suggests that we should now order the legislature to enact redistricting legislation despite their inability to cure the procedural violation. Moreover, although Judge Troutman posits that the People would not approve of a court-ordered redistricting map that is, in fact, exactly what the People have approved in the State Constitution as a remedy by declaring that the IRC “process . . . shall govern . . . except to the extent that a court is required to order the adoption of, or changes to, a redistricting plan as a remedy for a violation of law”

Nearly a century and a half ago, we wrote that “[t]he Constitution is the voice of the people speaking in their sovereign capacity, and it must be heeded” (*Matter of New York El. R.R. Co.*, 70 NY 327, 342 [1877]). Thirty years later, we relied on that fundamental principle to conclude that “[a] legislative apportionment act cannot stand as a valid exercise of discretionary power by the legislature when it is manifest that the constitutional provisions have been disregarded . . . [because] [a]ny other determination by the courts might result in the constitutional standards being broken down and wholly disregarded” (*Matter of Sherrill v O’Brien*, 188 NY at 198). Today, we again uphold those constitutional standards by adhering to the will of the People of this State and giving meaningful effect to the 2014 constitutional amendments.

We therefore remit the matter to Supreme Court which, with the assistance of the special master and any other relevant submissions (including any submissions any party wishes to promptly offer), shall adopt constitutional maps with all due haste. Accordingly, the Appellate Division order should be modified, with costs to petitioners, in accordance with this opinion and, as so modified affirmed.

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(NY Const, art. III, § 4 [e]). Just as puzzling, Judge Wilson begins his dissent with a nonsensical advisory opinion, indicating that although he concludes no violation of the constitution occurred, he nonetheless agrees with Judge Troutman’s proposed remedy – a solution to a problem that, in his view, does not exist.

TROUTMAN, J. (dissenting in part):

I agree with the majority that petitioners have standing, and I further agree with the majority's holding that the 2022 congressional and state senate redistricting plans (2022 plans) were not enacted by the legislature in compliance with the constitutional process.

However, I dissent as to the majority's advisory opinion on the substantive issue of whether the plans constitute political gerrymandering and as to the remedy.

The majority correctly concludes that sections 4, 5, and 5-b of article III of the State Constitution, as ratified by the citizens of the State, provide the exclusive process for redistricting (*see* NY Const, art III, § 4 [e]). This process requires, among other things, that any redistricting plan to be voted on by the legislature must be initiated by the Independent Redistricting Committee (IRC) (*see* § 4 [b]). Once this Court holds that the 2022 plans were unconstitutionally enacted and must be stricken on that threshold basis, it should not then step out of its judicial role to further opine on the purely academic issue of whether the 2022 congressional map failed to comply with the substantive requirements of section 4 (c) (5). The 2022 plans, which the majority concludes are void ab initio, are no longer substantively at issue, nor can the majority seriously claim them to be so. Furthermore, although the majority purports to provide “necessary guidance to inform the development of a new congressional map on remittal” (majority op at 24 n 12), the majority's opinion provides no such guidance. Its conclusion, based on affirmed findings of fact that the congressional map was drawn with partisan intent, is not illuminating in the least because the majority does not engage in the kind of careful district-specific analysis that might provide any practical guidance to an actual mapmaker, nor could it on this record (*cf.* Wilson dissenting op at 12-25). By opining on this academic issue, the majority renders “an inappropriate advisory opinion” by “prospectively declar[ing] the [redistricting] invalid on additional . . . constitutional grounds” (*T.D. v New York State Off. of Mental Health*, 91 NY2d 860, 862 [1997]; *see Self-Insurer's Assn. v State Indus. Commn.*, 224 NY

13, 16 [1918] [Cardozo, J.] [“The function of the courts is to determine controversies between litigants . . . They do not give advisory opinions. The giving of such opinions is not the exercise of the judicial function”]).

Given the procedural violation flowing from the breakdown in the constitutional process, we must fashion a remedy that matches the error.<sup>1</sup> The Constitution contemplates that a court may be “required to order the adoption of . . . a redistricting plan as a remedy for a violation of law” (NY Const, art III, § 4 [e]). In so ordering, where a court finds that redistricting legislation violates article III, “the legislature shall have a full and reasonable opportunity to correct the law’s legal infirmities” (§ 5). Consistent with these provisions, this Court should order the legislature to adopt either of the two plans that the IRC has already approved pursuant to section 5-b (g). Those plans show significant areas of bipartisan consensus among the IRC commissioners. The boundaries of the districts of Upstate New York, in particular, are nearly identical between the two plans and similar to those in the procedurally infirm plan enacted by the legislature (*see Matter of Harkenrider v Hochul*, — AD3d —, 2022 NY Slip Op 02648, \*7 [4th Dept April 21, 2022] [Whalen, P.J. & Winslow, J., dissenting in part]). Given the existence of these IRC-approved plans, there is no need for a redistricting plan to be crafted out of whole cloth and adopted by a court. Rather, the legislature should be ordered to adopt one of the IRC-approved plans on a strict timetable, with limited opportunity to make amendments thereto. As part of our judicially crafted remedy, we could order that any amendments to either plan “shall not

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<sup>1</sup> The majority seems unwilling to grasp this concept (majority op at 31-32 n 20).

affect more than [2%] of the population of any district contained in such plan” (Legislative Law former § 94). In other words, the legislature would be bound by its own self-imposed restrictions, which were in effect at the time these plans were first presented for legislative approval.

Such a remedy not only adheres more closely to the constitutional redistricting process, but it discourages political gamesmanship. Throughout this proceeding, respondents have asserted that the legislature has near-plenary authority to adopt a redistricting plan, whereas petitioners have sought to take the process out of the hands of the legislature and to place it into the hands of the judiciary. It is of course disputed why the constitutional process broke down, but it is readily apparent that the IRC’s bipartisan commissioners failed to fulfill their constitutional duty. None of the parties is entitled to the resolution that he or she seeks.

In addition, this remedy allows the legislature to enact a plan that minimizes the impact on the reliance interests of both the voters and candidates. Petitions have been circulated, citizens have contributed monetary donations to the candidates of their choice, and eligible voters have had the opportunity to educate themselves on the candidates who are campaigning for their votes, all in reliance on the procedurally infirm redistricting plan enacted by the legislature. Of course, entrenched candidates have the party apparatus to support them in the event that further redistricting causes excessive upset to the current plan. In such a circumstance, outside candidates, upstart candidates, and independent candidates, who lack the resources of the well-heeled, will be disadvantaged most, leaving

the voters who support them without suitable options. The legislature, duly elected by the citizens of this State, is in the best position to take these considerations into account.

Yet, the remedy ordered by the majority takes the ultimate decision-making authority out of the hands of the legislature and entrusts it to a single trial court judge. Moreover, it may ultimately subject the citizens of this State, for the next 10 years, to an electoral map created by an unelected individual, with no apparent ties to this State, whom our citizens never envisioned having such a profound effect on their democracy. That is simply not what the people voted for when they enacted the constitutional provision at issue. Although the IRC process is not perfect, it is preferable to a process that removes the people's representatives entirely from the process. The majority states that it "decline[s] to render the constitutional IRC process inconsequential in the manner requested by the State respondents" (majority op at 23); however, the majority does just that by crafting a remedy that cuts the legislature out of the process. The citizens of the State are entitled to a resolution that adheres as closely to the constitutional process as possible. By ordering the legislature to enact redistricting legislation duly initiated by the IRC, this Court could afford the legislature its "full and reasonable" opportunity while honoring the constitutional process ratified by the people.

WILSON, J. (dissenting):

I agree with Judge Troutman that Article III, Section 5 of the Constitution means that the majority's referral of this matter to a special referee is not allowable, and I further agree that her proposed solution of requiring the Legislature to act on the Independent

Redistricting Commission (“IRC”) maps that have been submitted, though novel, would be acceptable in the unusual circumstances presented here. I also fully concur in Judge Rivera’s dissenting opinion, and I do not view Judge Rivera’s opinion as necessarily inconsistent with Judge Troutman’s proposed remedy. Therefore, I address the merits of the claim that the 2022 redistricting itself violates the Constitution. It does not.

The burden a plaintiff must meet to overturn legislative action as violative of the New York Constitution is extraordinarily high. We have often (though not always) described that burden as proving unconstitutionality “beyond a reasonable doubt” (*Matter of Wolpoff v Cuomo*, 80 NY2d 70, 78 [1992]; *but see Matter of City of Utica*, 91 NY2d 964 [1998] [upholding a state statute’s constitutionality without reference to the beyond a reasonable doubt standard]; *Matter of Sherrill v O’Brien*, 188 NY 185, 198 [1907] [“A legislative apportionment act cannot stand as a valid exercise of discretionary power by the legislature when it is manifest that the constitutional provisions have been disregarded”]; *Matter of Whitney*, 142 NY 531, 533 [1894] [upholding the apportionment of Kings County into assembly districts because, although flawed, “the division has seemed to us a reasonable approach to equality, and under all the circumstances of the case a substantial obedience to the writ”]). Both Supreme Court and the Appellate Division described the test that way. Thus, to prevail, the petitioners need to have proved beyond a reasonable doubt that the Legislature’s 2022 Congressional and State Senatorial districts were “drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties” (NY Const, art III, § 4 [c] [5]). It is important to

pay close attention to the wording of the Constitution. It does not prohibit the creation (or maintenance) of districts that are highly partisan in one direction or the other. Indeed, both in New York and around the rest of the nation, voters tend to cluster in geographic areas that reflect party affiliation. As a simple example, rural areas in New York and in the United States generally tend to have much higher concentrations of Republican voters than do urban areas. What the Constitution prevents is purposefully drawing districts to discourage competition or favor particular parties or candidates.

After a review of the record, I am certain that the petitioners failed to satisfy the “beyond a reasonable doubt” standard. By that, I do not mean to say that I know the Legislature did not draw some districts in a way that violated our State Constitution; rather, the evidence here does not prove that to be the case at the level of certainty required to invalidate the 2022 redistricting as unconstitutional. Perhaps with a different record, petitioners could make such a showing, but they have failed to do so here.

The question before us, then, is whether the petitioners introduced sufficient evidence to discharge their very high burden of proving that the Legislature adopted gerrymandered district lines in violation of the Constitution. That is unequivocally a question of law, and thus within the heartland of our Court’s power of review (*see Glenbriar Co. v Lipsman*, 5 NY3d 388, 392 [2005]; *see also People v Jin Cheng Lin*, 26 NY3d 701, 719 [2016] [noting that whether “the proof (does not meet) the reasonable doubt standard” is “a matter of law” (alterations in original)]; *People v Tarsia*, 50 NY2d 1, 13 [1980] [evaluating “the total evidence” as to whether “the proof was insufficient as a matter

of law to support the affirmed findings that defendant’s inculpatory statements . . . were voluntary”]; *People v Anderson*, 42 NY2d 35, 39 [1977] [“(W)hether the proof met the reasonable doubt standard at all is a matter of law”]; *People v Leonti*, 18 NY2d 384, 389 [1966] [“(W)hether the evidence adduced meets the standard required is one of law for our review”]). The majority incorrectly treats this as an unreviewable question of fact, characterizing Supreme Court’s finding that the 2022 congressional map was drawn to discourage competition as a factual “determination” that has “record support” and thus should not be “disturb[ed]” (majority op at 26-27)—a distinct, and here inapt, standard (*see Stiles v Batavia Atomic Horseshoes, Inc.*, 81 NY2d 950, 951 [1993]).

Indeed, it is remarkably inaccurate to suggest that our Court is without power to review the Appellate Division’s ruling on the partisan gerrymander claim. This case is before us as an appeal as of right based on CPLR 5601 (b). This case satisfies the conditions for an appeal as of right because the question presented—whether a congressional map, *i.e.*, a legislative enactment, is constitutionally invalid—is a question of law that is reviewable by this court (*see Cayuga Indian Nation of New York v Gould*, 14 NY3d 614, 635 [2010] [“(A) query concerning the scope and interpretation of a statute or a challenge to its constitutional validity” is a “pure question of law”]).

Petitioners’ evidence falls into three basic categories. First, petitioners primarily rely on the testimony of Sean P. Trende, an elections analyst and doctoral candidate at Ohio State University. At best, Mr. Trende’s results are incomplete and inconclusive, but they are also legally insufficient to meet the above standard. Second, petitioners rely on the

projected loss of four Republican Congressional seats (out of eight that currently exist). The difficulty with that proof is that it assumes that factors unrelated to how the districts were drawn have not caused the result. Third, petitioners contend that the 2022 redistricting was accomplished through the complete exclusion of Republican members of the Legislature from the process and a failed attempt by Democrats to further amend the Constitution, followed by the enactment of a statute. I view that as their best argument in support of their gerrymander claim but one that, without more, does not meet the high bar for invalidating the Legislature's 2022 redistricting plan.

## I

The petitioners, Supreme Court, and the Appellate Division plurality each relied heavily on the testimony of Mr. Trende. Mr. Trende's testimony is based on simulations in which a computer algorithm uses demographic data, takes parameters set by the user, and draws districting maps for the region (in this case, New York State) specified by the user. This is the first time Mr. Trende has testified in a case in which he prepared redistricting simulations of any kind. Instead of using the Markov Chain Monte Carlo simulation algorithm, which has been regularly used in redistricting cases, Mr. Trende used a new simulation algorithm developed by Dr. Kosuke Imai, a Harvard professor, along with publicly available political and demographic data at the census block and precinct levels. Dr. Imai's new algorithm appeared in an unpublished paper that had yet to be peer-reviewed. In that paper, Dr. Imai reported that he had tested the reliability of his new model

by applying it to a 50-precinct map and running 10,000 simulations. By comparison, New York State has more than 140,000 precincts; uncontroverted evidence (including from Mr. Trende) establishes that the complexity of producing a working algorithm increases as the number of precincts increases.

In brief, Dr. Imai's algorithm draws possible maps, starting from a blank page, but taking into account parameters the user sets. For example, a user can specify to avoid splitting a county (or city) into different districts, though sometimes splitting is inevitable and may be accomplished in myriad ways. By running thousands of simulations and comparing them to what the Legislature has done, the model allows for measurement of the difference in party breakdown between the collection of simulated maps and the legislatively drawn map. The model can produce summary statistics showing, for example, that, when compared to the legislative map, the simulated maps distribute voters of one party or another (here, Republicans) in a way that concentrates a lot of them into some districts where Republicans would likely have won elections anyway, thus removing them from districts where Democrats might have faced a close election. In simple terms, Mr. Trende concluded that the legislative map consolidated Republican voters into a few Republican-leaning districts and spread Democratic voters in an efficient fashion. Of course, the model cannot tell you *why* the Legislature drew the districts that way, but, provided that a scientific method is proven to be reliable, the data entered is of good quality, the parameters chosen are correct, and the results are robust (*i.e.*, not susceptible to material swings in output when parameters are varied within reasonable ranges for those

parameters), the law allows intent to be inferred from results in a variety of areas (*e.g.*, *People v Guzman*, 60 NY2d 403, 412 [1983] [discriminatory intent inferred from underrepresentation in Grand Jury selection]; *303 W. 42nd St. Corp. v Klein*, 46 NY2d 686, 695 [1979] [discriminatory intent inferred from “a convincing showing of a grossly disproportionate incidence of nonenforcement against others similarly situated in all relevant respects save for that which furnishes the basis of the claimed discrimination”]).

Again, Article III, Section 4 of the Constitution states that “[d]istricts shall not be drawn *to* discourage competition or *for the purpose of* favoring or disfavoring incumbents or other political candidates or other political parties” (emphasis added). The prohibition, then, is against drawing maps *with the intention to* discourage competition or favor or disfavor incumbents, political candidates, or political parties. In other words, if a given map ends up discouraging competition or favoring a political party, that map does not necessarily run afoul of the Constitution’s prohibition. Instead, an *intent* to discourage competition or to favor that political party must be shown for the map to violate the Constitution.

Staten Island provides a good example to keep in mind, one to which I will return later. Staten Island is traditionally Republican. It does not have quite enough people in it to constitute an entire congressional district, but it forms the vast portion of Congressional District 11, both in the 2010 districting and the Legislature’s 2022 districting, with the added voters coming from Brooklyn. No one suggests that, by keeping Staten Island intact within a single congressional district instead of splitting it across two districts with more

Brooklynites, the Legislature in 2010 or 2022 did so with the intent to advantage Republicans. If you split Staten Island into two different congressional districts and added enough Brooklynites to fill out those districts, each of the districts would have more Brooklynites than Staten Islanders, and the strength of the Republican voting of Staten Island would be diluted. The two new districts might be more competitive—*i.e.*, closer to 50/50 than District 11 is or has been—but it is sufficient, to reject a claim of intent to advantage Republicans by keeping Staten Island whole within a single district, to say that it is an island and people there live in communities that are distinct from those in Brooklyn. Again, the *why* is important, not the *what*.

Mr. Trende's testimony and analysis were legally insufficient to bear on the question of intent for three reasons. First, the New York Constitution *requires* the consideration of several specifically identified factors when creating congressional districts, with some additional factors required for State Senatorial districts. Thus, Mr. Trende's results at most show that if we amended the New York Constitution to strike out those factors, he could conclude the Legislature acted with intent to disfavor Republicans or reduce competition. Second, close examination of districts in the real world, as compared to those hidden in thousands of hypothetical unseen maps, further exposes the unreliability of Mr. Trende's conclusions. Finally, the novelty of Dr. Imai's algorithm and the opacity of Mr. Trende's implementation of it create very substantial doubt as to his conclusions. The method is novel and not peer reviewed. Mr. Trende did not attempt the established Markov Chain Monte Carlo simulation to compare it to his results, nor did he provide the model, inputs,

data sets, or output maps that formed the basis for his analysis. Indeed, neither he nor anyone has seen the algorithm-produced maps underlying his analysis. We are being asked to determine unconstitutionality based on shadows.

New York's Constitution requires that the following factors be considered when drawing congressional districts:

1. Compliance with “the federal constitution and statutes” (NY Const, art III, § 4 [c]);
2. “whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to or have the purpose of, nor shall they result in, the denial or abridgement of such rights” (*id.* § 4 [c] [1]);
3. “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” (*id.*);
4. “Each district shall consist of contiguous territory” (*id.* § 4 [c] [3]);
5. “Each district shall be as compact in form as practicable” (*id.* § 4 [c] [4]);
6. “Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties” (*id.* § 4 [c] [5]);
7. Consideration of “the maintenance of cores of existing districts” (*id.*); and
8. Consideration of the maintenance of “pre-existing political subdivisions, including counties, cities and towns, and of communities of interest” (*id.*).

For senatorial districts, the Constitution adds requirements that “senate districts not divide counties or towns, as well as the ‘block-on-border’ and ‘town on border’ rules” (*id.* § 4 [c] [6]).

Mr. Trende admittedly did not attempt to have his simulations account for several of the constitutionally required factors listed above. For that reason alone, his simulations do not provide evidence of the Legislature’s intent to disfavor Republicans or reduce competition. Putting aside all other methodological and implementation problems, a proper comparison would ask: what would an unbiased mapmaker (the algorithm) do if given the same constitutional requirements as the Legislature has? Instead, Mr. Trende has attempted to answer a different question: what would an unbiased mapmaker do if it lacked some of the constitutional requirements the Legislature is required to follow?

This is not merely a conceptual problem, which is readily seen by identifying the constitutional factors Mr. Trende omitted. First, under the Equal Protection Clause and the federal Voting Rights Act (“VRA”), the composition of congressional districts must not discriminate on the basis of race or color (52 USC § 10301; US const, amend XIV, § 1). New York’s Constitutional requirements, listed as items 2 and 3 above, represent similar protections not just on the basis of race, but language as well. Mr. Trende gave no instruction to his algorithm to take any consideration of those constitutional requirements for drawing districts. Mr. Trende noted that his “simulated maps are not drawn with any racial data available to the simulation”—that is, the simulation could not even take race into account in drawing districts if Mr. Trende had specified that as a parameter. Likewise,

nothing in the record suggests that Mr. Trende's simulation used any data concerning the language of inhabitants, and he made no claim to have done so.

Faced with criticism that he had omitted consideration of factors 1 through 3 above, Mr. Trende responded generally that, "every one of Respondent's experts could readily demonstrate that . . . fixing the purported omissions might lead this Court to arrive at different conclusions," which, as explained below, attempts to shift the burden of proof onto respondents. He then explained his omission on the ground that "there is no evidence proffered by any party of racially polarized voting in New York City or in particularized boroughs, nor is there any evidence that any single minority group can form a reasonably compact majority in a district." Besides lacking any evidentiary support, his assertion is patently and commonly understood to be wrong. Looking just to last year's New York City mayoral election, Curtis Sliwa, the Republican nominee, "scored 44% of the vote in precincts where more than half of residents are Asian — surpassing his 40% of votes in white enclaves, 20% in majority-Hispanic districts and 6% in majority-Black districts" (Rong Xiaoqing et al., Chinese Voters Came Out in Force for the GOP in NYC, Shaking Up Politics, The City [Nov 11, 2021], <https://www.thecity.nyc/politics/2021/11/11/22777346/chinese-new-yorkers-voted-for-sliwa-gop-republicans>). In the same election, now-Mayor Eric Adams "dominated" the "Black Bloc," a "63 percent non-Hispanic Black and 23 percent college-educated swath of Brooklyn and Queens," where Adams grew up and where he won "63 percent of first-place votes" (Nathaniel Rakich, How Eric Adams Won The New York City Mayoral Primary,

FiveThirtyEight [Aug 25, 2021], <https://fivethirtyeight.com/features/how-eric-adams-won-the-new-york-city-mayoral-primary/>).

Mr. Trende attempted to make some account of the omission of the federal and state protections for racial minority voting rights by “freezing” certain census blocks in nine districts to remove them from his analysis, explaining that those districts are “plausible candidates for protection under the VRA or the State Constitution.” Even assuming that his choice of districts is sound, his results demonstrate the importance of his omission of constitutionally required factors: his “frozen” simulations produced results that “ma[ke] Petitioner’s case more difficult.” Specifically, those “plausible” protections for minority voters produced results that “accept[] the Legislature’s decision to pair Yorktown with Yonkers in the Sixteenth District, and to crack Republican-leaning areas in Midwood and Sheepshead Bay between the Ninth and Eighth districts.” In other words, by including even a rough proxy for protection of minorities, he admits that some of what he described as gerrymandering is explainable instead by protection of minority voting rights. Mr. Trende’s utter lack of consideration of the constitutional requirement to consider protection of non-English language groups inherently means his simulations do not show what an unbiased mapmaker would do if that constitutional command mattered.

Likewise, Mr. Trende completely neglected considering keeping “communities of interest” together (item 8 above), as the Constitution requires. Keeping in mind that differences in party affiliation within a district do not matter unless they were created with the *intent* to disadvantage a party or candidate or to reduce competition, Mr. Trende ignored

that the IRC—composed in equal parts of persons appointed by Democrats and Republicans—reached agreement on keeping together many communities of interest. For example, both sets of IRC maps (one produced by the Democratic faction and the other by the Republican faction) agreed that the Southern Tier of New York should be unified in a district. The Southern Tier is a strip of eight counties along upstate New York’s southern edge, the part of the state that shares a border with Pennsylvania.<sup>1</sup> Those counties are grouped as a region in New York State’s materials on economic development (*see* New York State, Empire State Development: Southern Tier, <https://esd.ny.gov/regions/southern-tier> [last accessed Apr 26, 2022]). Indeed, the region has a storied history of being a manufacturing powerhouse, though the region also faced struggles within the past decade due to a decline in manufacturing and uncertain economic development (Susanne Craig, New York’s Southern Tier, Once a Home for Big Business, Is Struggling, NY Times [Sept 29, 2015], <https://www.nytimes.com/2015/09/30/nyregion/new-yorks-southern-tier-once-a-home-for-big-business-is-struggling.html>). Those counties are more Republican than Democratic; in a show of how culturally distinct the region is, hundreds of residents in the Southern Tier in 2015 rallied in support of seceding from the state of New York (*id.*). One Republican lawmaker even applauded the fact that the maps proposed by the Democratic and Republican commissioners to the IRC both kept the Southern Tier intact (Rick Miller,

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<sup>1</sup> The Southern Tier has long been recognized as a cohesive political unit (*see* Warren Moscow, GOP Held Strong in Southern Tier, NY Times [Oct 16, 1946], <https://timesmachine.nytimes.com/timesmachine/1946/10/16/107146657.html?pagenumber=31>).

Southern Tier Congressional District Essentially Maintained in NY Redistricting Maps, Olean Times Herald [Jan 4, 2022], [https://www.oleantimesherald.com/news/southern-tier-congressional-district-essentially-maintained-in-ny-redistricting-maps/article\\_56c5d543-6c8a-55d3-a3de-e662bdb0f6dd.html](https://www.oleantimesherald.com/news/southern-tier-congressional-district-essentially-maintained-in-ny-redistricting-maps/article_56c5d543-6c8a-55d3-a3de-e662bdb0f6dd.html)). For upstate New York, the Democratic Commissioners and the Republican Commissioners agreed that there should be three Republican-leaning districts: one uniting the Southern Tier, one uniting the North Country, and one by Lake Ontario. The Commissioners from the two parties also agreed that there should be Democratic-leaning districts in the four urban areas in upstate New York: in and around Albany, Syracuse, Rochester, and Buffalo. The result of those bipartisan decisions by the IRC demonstrates that those districts (broadly, all of upstate New York, about which the IRC had no substantial disagreements) should have been excluded from Mr. Trende's simulations. But even though the Southern Tier and the other upstate counties and cities were bipartisanly districted as "communities of interest," Mr. Trende made no effort to keep the Southern Tier, or other communities of interest, intact in his model. Indeed, Mr. Trende "didn't pay any attention to what any of those [IRC] commissioners [had] done in their proposals," had not read any of the testimony before the IRC, and did not know whether there was any testimony before the IRC about communities of interest.

Instead, he told Supreme Court that such communities are too difficult to code, even though he also acknowledged that in a redistricting exercise he undertook for Virginia, he and his co-researcher accounted for communities of interest. Mr. Trende did not do any sort of proxy analysis as he did for race, and because neither he nor anyone else ever looked

at the 10,000 maps his simulation drew, he has no idea what his algorithm did to the Southern Tier or any other upstate areas. But Dr. Imai's own data provides some insight.

Mr. Trende used Dr. Imai's model and data. The record includes four sample maps from a set of 5,000 simulations for New York prepared by Dr. Imai himself. Two of the sample maps from Dr. Imai's simulations broke up the North Country. All three of the sample maps broke up the Southern Tier. None of Dr. Imai's sample maps maintained Democratic-leaning districts around all of Albany, Syracuse, Rochester, and Buffalo. Those samples strongly suggest that Mr. Trende's conclusions about intentional gerrymandering depend on comparison to maps that would have broken up congressional districts arrived at by bipartisan consensus. Of course, had Mr. Trende looked at his own maps, or even turned them over for respondents to examine, we would be able to know how many of his "less gerrymandered" simulations were incompatible with districting actually arrived at bipartisanly, with regard for the constitution's directions.<sup>2</sup> Instead, it is

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<sup>2</sup> Mr. Trende's decision not to examine his own maps and not to permit anyone else to see them poses a separate reliability issue. Dr. Imai's algorithm generates huge numbers of redundant maps, which should be weeded out before analysis is conducted. Mr. Trende himself did so when working on a redistricting map for Maryland. There, he completed three sets of 250,000 simulations. He then eliminated the duplicates, which ranged from 220,000 to 160,000 for each of his sets—that is, 64% to 88% of the maps produced were duplicates that he discarded (*Szeliga v Lamone*, Nos. C-02-CV-21-00173, Slip Op at 99, 102-104). Furthermore, New York State is significantly larger than Maryland; whereas Maryland only has 8 congressional districts, New York has 26 congressional districts. Mr. Trende acknowledged that the more precincts are involved, the more complicated it becomes to accurately use redistricting simulations to draw conclusions. Yet, in spite of acknowledging that using simulations for New York would be more difficult than for Maryland, Mr. Trende inexplicably generated only 10,000 simulations for New York and subsequently failed to check even that small set for duplicates.

clear that, just as with the racial and language protections in the constitution, Mr. Trende's exclusion of communities of interest has made his analysis legally irrelevant: at most, it answers what an unbiased mapmaker would do if that mapmaker was told to disregard protection of racial minorities, language minorities and communities of interest.

One final example from Dr. Imai's work illustrates the unsoundness of Mr. Trende's conclusions. His conclusions are based on comparing the algorithm-drawn simulated districts, which purportedly are "less gerrymandered," against the Legislature's redistricting plan. Because neither we nor Mr. Trende knows what his "less gerrymandered" maps look like, we cannot know whether they are sensible maps that should be included in such a comparison. But because Dr. Imai, using the same data and same model, displayed some sample maps, we can observe the kind of maps Mr. Trende has relied on for his conclusions. Sample Plan 1 from Dr. Imai's simulation placed Schuyler County and Franklin County into the same congressional district. Schuyler County is near upstate New York's southern border with Pennsylvania, and Franklin County is one of the northernmost counties in New York, on the border with Canada—that is, those two counties are on opposite sides of upstate New York. Their county seats are 262 miles away via highway (Google, Google Maps Driving Directions for Driving from Watkins Glen, New York to Malone, New York, <https://perma.cc/L3KH-DN5B> [last accessed Apr 26, 2022]). In essence, what Mr. Trende is showing is that the partisan imbalance of some congressional districts could be reduced by radically rejiggering them

in a way that no human mapmaker (or resident of either of those counties) would think remotely sensible. Interesting though it may be, it is legally irrelevant.

Apart from the omitted constitutional requirements, the creation of districts requires balancing among the different constitutional requirements. Some are relatively inflexible—such as districts of equal population (*see Baker v Carr*, 369 US 186 [1962]), compliance with the VRA or, for senatorial districts, the “block-on-block” rule; others, such as compactness or protection of communities of interest, allow for an exercise of judgment in how to balance them. Mr. Trende made no explicit decision in how to balance the factors he did include, was uninformative about what balance was implied, and did not vary the relative weights of his parameters to determine the robustness of his conclusions. For instance, Mr. Trende included a parameter for the compactness of districts, which the constitution instructs should be considered. When asked how he valued compactness, he testified to selecting a value of “1” in Dr. Imai’s model because he knew that “the other choices don’t work well.” He agreed that the compactness parameter could be set at less than 1, or more than 1, but provided no explanation for what the settings meant, how much priority a change in setting gave to compactness versus any other factor, or even what was meant by other values not working well—which may simply mean that when he tested for robustness of the parameter, he found that changing the relative weight given to compactness resulted in statistics that did not support his conclusions or that the model ceased to function, neither of which should give us confidence sufficient to hold the redistricting unconstitutional.

Similarly, Mr. Trende said that Dr. Imai’s model allowed an “on” or “off” switch on whether to split counties. He put that switch “on,” even though New York map drawers must balance county preservation with other considerations—effectively meaning he gave county integrity a superpriority over other constitutional factors. Nothing in the Constitution requires the Legislature to prefer county integrity over any other factor, or even to give the same priority to county integrity for every county. Rather, the Constitution gives the Legislature flexibility in weighting many of the required considerations differently in different circumstances, but Mr. Trende implicitly assigned fixed and universal relative weights to every one of those that he included. Faced with the potential for differently weighting parameters, responsible modelers alter the parameters within reasonable bounds to see whether the alterations make a difference. When the difference is not great, models are robust; when they are great, models are lacking in probative value (*see, e.g.*, Amariah Becker et al., Computational Redistricting and the Voting Rights Act, 20 Election L J 407, 430 & n 31 [2021]). When nobody tests for robustness, invalidating districts as unconstitutional beyond a reasonable doubt is sheer guesswork.

Respondents pointed out the many deficiencies in Mr. Trende’s model. In addition to the examples explained in detail above, Mr. Trende repeatedly and improperly answered in a way that attempted to shift the burden of proof from petitioners onto respondents. For instance, in response to respondents’ assertion that his failure to consider all the relevant constitutional considerations undermined the validity of his methodology, Mr. Trende asserted that “[e]very one of Respondents’ experts is more than capable of either re-running

the relevant simulation algorithm that I employed or executing a competing algorithm” and “[i]f there are indeed important communities of interest to be protected, however, any of Respondents’ experts could program a simulation that respected those communities of interest and potentially harm Petitioners’ case.” On cross-examination, he reiterated that “if there is something that [the respondents’] experts believe . . . is missing that makes a difference -- they think makes a difference, they can do it.”

The lower courts erroneously acceded to Mr. Trende’s burden shifting, which itself is a legal error requiring reversal (*Harkenrider v Hochul*, --- AD3d ---, 2022 NY Slip Op 02648, \*7 [4th Dept 2022] [Whalen, P.J., dissenting]).<sup>3</sup> Proof beyond a reasonable doubt is an exacting standard: a party bearing that burden must remove all reasonable doubt, which is not met by saying that the opponent has the ability to disprove an assertion. Faulting the respondents for the petitioners’ failure to account for constitutionally required redistricting criteria improperly reverses the burden of proof; it is the *petitioner*’s burden to prove unconstitutional partisan intent beyond a reasonable doubt.

In short, the factors set out in the Constitution must be considered during redistricting with flexibility in the relative weighting on a case-by-case basis. Maintaining the Southern Tier as a community of interest may be powerfully important; maintaining the Upper West Side as one may not be. Mr. Trende acknowledged that his algorithm

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<sup>3</sup> For example, Supreme Court noted that Mr. Trende “did not include every constitutional consideration”—which should render his evidence legally insufficient. Supreme Court explained away that deficiency by saying that “[n]one of Respondents’ experts attempted to draw computer generated maps using all the constitutionally required considerations,” a clear example of improper burden shifting.

cannot undertake that balancing, and to his credit explained that “the more that you adequately control all of the variables that the actual mapmakers actually used, the more you can infer intent, and the less you adequately control for those variables, the less you can infer intent” to gerrymander. Because Mr. Trende’s analysis omitted constitutionally required factors and fixed implicit weights for others without allowing for flexibility, all his analysis demonstrates, at best, is that if our Constitution read very differently, he could find an intent to gerrymander. That conclusion is orthogonal to the issue here.<sup>4</sup>

## II

Apart from Mr. Trende’s opinion, the Appellate Division plurality concluded that the “‘application of simple common sense’ from the enacted map itself and its likely effects on particular districts” supports petitioners’ argument that the legislative districts were intentionally created to disfavor a party or candidate or render certain districts less competitive (2022 NY Slip Op 02648, \*5 [citations omitted]). There are three significant problems with that conclusion. First, as noted above, for the great majority of

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<sup>4</sup> The error in the majority’s sole, footnoted response, contending that I have performed a weight of the evidence analysis (majority op at 27 n 14), can be illustrated as follows: Mr. Trende uses a Ouija board to determine that the districts have been gerrymandered, and, when communicating with the spirits in the netherworld, directs them to the provisions in North Carolina’s constitution instead of New York’s. The lower courts rely on that evidence to hold that the New York Legislature has engaged in gerrymandering. According to the majority, the New York Court of Appeals could not conclude an error of law has been made. The majority is right about one thing: I disagree that my job is so limited.

congressional (and senatorial) districts, the Republican and Democratic factions of the IRC substantially agreed as to the district boundaries, and the legislative plan does not deviate materially in the case of those districts. Of course, that does not resolve the question for districts on which the IRC factions disagreed or for which the Legislature's plan was materially different, but it should remove most districts from the dispute.

Second, the Appellate Division relied on the following observation: "under the 2012 congressional map there were 19 elected democrats and 8 elected republicans and under the 2022 congressional map there were 22 democrat-majority and 4 republican-majority districts" (2022 NY Slip Op 02648, \*3). The majority acknowledged that, standing alone or even in conjunction with the lack of Republican input into, or vote for, the 2022 map, the evidence would not be strong enough to surmount the high standard for invalidating the 2022 redistricting as unconstitutional. However, the mere change in the number of majority Democratic and Republican districts says nothing about *why* those changes occurred or about intent. The inference that the change is nefarious ignores important undisputed data.

The 2012 districts are obsolete and not a relevant source of comparison. Population and registration shifts demonstrate that New York's voting populace has changed in the Democrats' favor. In the past ten years, Democratic voter registration has outstripped Republican voter registration ten-to-one: Democratic voter registration increased by more than one million people statewide between April 2012 and February 2021, whereas Republican voter registration increased by less than 100,000 people during the same

period. Similarly, over the decade, Democrat-leaning counties have increased in population, whereas Republican-leaning counties have decreased in population. It is unsurprising that such drastic shifts would occur in just a ten-year time horizon; that's why the Constitution requires decennial redistricting (NY Const, art III, § 4 [a]).

The characterization of the outgoing 2012 map as having 19 Democrat-leaning and eight Republican-leaning districts—in comparison to the four Republican-leaning districts in the 2022 map—is misleading because it disregards the changes of the last decade. To start, it is undisputed that one Republican seat under the 2012 map, former District 22, was eliminated due to substantial population shifts and New York's loss of a congressional seat. But more importantly, it is undisputed that, based on the 2020 census data, the 2012 map would also produce only four Republican-leaning districts.

Third, and most importantly, it is undisputed that the 2022 legislative redistricting was slightly *more* favorable for Republicans than the array of simulated “unbiased” maps produced by Mr. Trende's simulation. The Appellate Division contended that, by “boldly asserting” that the Democratically created 2022 plan tended to favor Republicans more than Mr. Trende's supposedly neutral maps, “respondents have created a further inference that they acted with a partisan purpose favoring democrats” (2022 NY Slip Op 02648, \*4). That claim confuses intent with effect. I return to Staten Island to illustrate the point.

Staten Island has historically been treated as a community of interest and not split into different congressional districts. If Staten Island is to be kept that way (wholly within District 11), it needs to include voters from somewhere else because Staten Island does not

have enough people to make up a full congressional district. Because of contiguity requirements, that must be Brooklyn. The 2012 map of District 11 included all of Bay Ridge (which is just north of the Verrazano Bridge) and Bath Beach, a few blocks of Bensonhurst, and Gravesend (all south of the bridge). The Legislature's 2022 redistricting keeps Bay Ridge to the north (itself a community of interest) with Staten Island, but instead of then going south, it drops out Bath Beach, the bit of Bensonhurst and Gravesend, and goes north and incorporates Sunset Park and a small bit of Park Slope.

Among the thousands of comments sent to the IRC after it publicly released its draft report for comments, looking just at the Richmond and Kings County submissions ([https://nyirc.gov/storage/archive/Kings\\_Richmond\\_Redacted.pdf](https://nyirc.gov/storage/archive/Kings_Richmond_Redacted.pdf)), numerous letters asked the IRC to keep various groups together. Among those is a letter from OCA-NY (formerly known as the Organization of Chinese Americans), a “non-profit, non-partisan organization dedicated to protecting the rights of Asian Americans in New York City.” That letter urged the IRC that, with regard to District 11, which contained Staten Island, “Bensonhurst and Bath Beach should NOT be with Staten Island. . . . Staten Island does not share a similar concentration of Asians, nor the culture of Asian businesses as Bath Beach/Bensonhurst, nor do residents in Bath Beach/Bensonhurst travel on a regular basis to Staten Island and vice versa.” Justin Wood, a Staten Islander, asked the IRC to “counter decades of artificial gerrymandering” by “extend[ing] NY11 northward into Bay Ridge and Sunset Park to unify linguistic and ethnic communities with shared interests.” Karen Zhou, the past president of Homecrest Community Services, wrote the

IRC noting that “Sunset Park, Bensonhurst, Homecrest, Sheepshead Bay, Dyker Heights, Bath Beach and Gravesend . . . [have] an interconnection bounded by common culture, language and socioeconomic factors,” further requesting that Bensonhurst and Homecrest be “together in one Congressional district . . . [to] ensur[e] communities of interest are not ignored or neglected.”

District 11 has been made less Republican by paying attention to unifying Asian American communities (which relates to the racial, language and community of interest requirements in the Constitution), for which the comments to the IRC were uniformly supportive. Because of contiguity requirements, there was nowhere to go but further north. The Appellate Division’s observation that the reduction in Republican-leaning districts (or in the strength of the Republican lean) demonstrates an *intent* to gerrymander rather than an attempt to pay attention to the Constitution is unsupportable. Data tells you effect only. But the record before the IRC shows that various members of the Asian American community—and one Staten Islander—urged the IRC to go north instead of south specifically to serve the ends of the VRA and the constitutional provision requiring weight be given to communities of interest. The algorithmic comparators on which the lower courts relied, by omitting considerations required by the Constitution, gave zero weight to those considerations, effectively saying that the Asian American community does not matter. That, in turn, leads to an unfounded inference that the 2022 redistricting was *intended* to disadvantage Republicans, when, in the case of Staten Island, it was intended

to protect Asian American voting rights and community interests, as the Constitution requires.

### III

The remaining evidence on which petitioners rely to demonstrate that the 2022 redistricting was done with intent to disfavor Republicans or make certain districts less competitive relates to procedural issues concerning the 2021 legislation, a failed 2021 constitutional amendment, and the creation of the 2022 districts in a three-day period after the IRC failed to deliver a revised report. Unlike the prior two factors, these are not legally irrelevant. As the Appellate Division concluded, however, as to petitioners' arguments on the process pursued to enact the 2022 map and its projected loss of Republican seats: without more and even with every reasonable inference taken in petitioner's favor, they do not meet the standard to declare the 2022 redistricting plan unconstitutional (2022 NY Slip Op 02648, \*3).

First, petitioners claimed that Democrats unilaterally drafted the 2022 redistricting map without any input or involvement from Republicans. The Appellate Division plurality further pointed to the "largely one-party process used to enact the 2022 congressional map" as partial support for its conclusion that petitioners met their burden of proving an inferred intent to favor the Democratic party (2022 NY Slip Op 02648, \*3). That the process was dominated by one party, however, is a result of the current political reality of the Legislature. Put another way, the Legislature reflects the current choice of the people as

to who will best represent their interests. Indeed, even had the IRC not shirked its duty, the Democratic supermajority in both houses could have rejected all IRC plans and then, consistent with the Constitution, adopted a plan without any Republican support. That result would be “partisan” in a sense, but not in the sense that would be necessary to show an intent to violate the Constitution. That the vote was along party lines could just as well suggest that the Republicans wanted to prevent a redistricting map that corrected past gerrymandering favoring Republicans (or an electoral shift that diminished their chances) as it could that Democrats sought to exclude Republicans for their party’s benefit.

Next, petitioners contend that the (Democratically controlled) Legislature, in June 2021, passed legislation providing for the possibility that the IRC might not vote on any redistricting plans, which the Governor signed in November 2021, and that the statute provides evidence of partisan intent to gerrymander because it provides that the Legislature will conduct the redistricting in that eventuality. As with the above claim, the statute’s adoption is not particularly probative as to intent. It is equally possible that the Legislature, seeing the possibility of electoral chaos in the event that the IRC failed to act as required, clarified that the outcome would be the same as if the IRC produced plans that the Legislature rejected. The fact that the statute was passed without Republican support might suggest a future intent by Democrats to gerrymander. It might suggest an intent by Republicans to oppose any measures that would correct existing imbalances. Or it might suggest that legislators simply sought to provide for something not contemplated by the Constitution.

Finally, petitioners point to a failed attempt by Democrats to further amend the Constitution as supporting an inference that the Democrats intended to favor a political party through the 2022 map. In November 2021, the Legislature proposed a constitutional amendment to the voters. Under that proposed constitutional amendment—if the IRC failed to vote on any redistricting plan or plans by the date required—the Commission would submit to the Legislature all plans in its possession, completed and in draft form, and the data upon which those plans were based (2021 SB 515 § 5-b [g-1]). If the IRC so failed in voting and had to submit its plans to the Legislature, that failure would require the Legislature to create its own redistricting plan, to be enacted by the Governor (*id.* § 4-b). The proposed constitutional amendment also included other changes, including increasing the number of state senators (*id.* § 2), establishing a timeline for 2022 redistricting (*id.* § 4 [b]), and requiring that incarcerated people be re-numerated to their last place of residence for the purpose of drawing redistricting lines (*id.* § 4 [c] [6]). On one hand, the petitioners argue that the voters’ rejection of the amendment shows that the voters would also have disapproved of the statute, and that both the failed amendment and statute were part of a plan by Democrats to bypass the IRC. On the other hand, as with the statute, it is perfectly feasible that Democrats worried that the IRC process would break down and wanted to clarify what should occur in that instance for the sake of election efficiency and integrity.

Taking all of this together, and taking every inference in favor of petitioners, one could colorably believe that the Legislature was attempting to position itself to be able to draw legislative districts unfettered by the IRC if the IRC deadlocked. As the Appellate

Division concluded, however, that evidence, standing alone, does not prove intent to gerrymander beyond a reasonable doubt (2022 NY Slip Op 02648, \*3).

#### IV

I agree with the principles underlying the majority's opinion. Election districts should not be created for the purpose of disadvantaging political opponents. Nor should they be created to disadvantage racial or ethnic minorities, or constructed in ways that minimize the responsiveness of elected officials to their constituents by, for example, splitting cities or communities of interest apart. I also do not rule out that, with a sound analysis, these plaintiffs or others could prove that the 2022 legislative plan violated the Constitution, at least in some districts. My disagreements are threefold:

- I read the constitutional provision as Judge Rivera does—leaving the redistricting authority ultimately in the hands of the Legislature;
- I am convinced these petitioners have not adduced legally sufficient evidence to demonstrate gerrymandering; and
- given my first two disagreements, I believe the majority's remedy inappropriately strips from the Legislature the right clearly provided in Article III, Section 5: "In any judicial proceeding relating to redistricting . . . [i]n the event that a court finds such a violation, the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities." This case is such a proceeding. As the majority

says, “[t]he Constitution is the voice of the people speaking in their sovereign capacity, and it must be heeded” (majority op at 32, quoting *Matter of New York El. R.R. Co.*, 70 NY 327, 342 [1877]). Why, then, does the majority not heed the Constitution’s command that the Legislature must be given a “full and fair opportunity” to address the legal infirmities identified in this judicial proceeding?

RIVERA, J. (dissenting):

I would reverse the Appellate Division judgment because petitioners failed to establish that the legislature violated the state's redistricting procedures or constitutional mandates. The legislature acted within its authority by adopting the redistricting legislation

challenged here after the Independent Redistricting Commission (IRC) chose not to submit a redistricting plan by the second constitutional deadline. Thus, there is no procedural error rendering the redistricting legislation *void ab initio*. Petitioners' claim of a substantive violation based on gerrymandering is also without merit as their evidence fell far short of proving that the legislature's congressional map was unconstitutional beyond a reasonable doubt.

### I.

In interpreting a constitutional provision, the primary role of this Court is to give effect to its unambiguous text and the intent of the People in adopting the provision (*see White v Cuomo*, — NY3d —, —, 2022 NY Slip Op 01954, \*5 [2022]). This appeal requires that we interpret Article III, §§ 4 and 5 of the New York Constitution. Under section 4, the IRC shall prepare decennially a redistricting plan to establish State Assembly and Senate and federal congressional districts and submit such plan and implementing legislation to the legislature for its consideration, without amendment (*see NY Const*, art III, § 4 [b]). If the legislature fails to approve the proposed legislation, the IRC shall prepare and submit a second redistricting plan and necessary implementing legislation for consideration (*see id.*). If the legislature fails to approve the second plan, the legislature shall approve its own implementing legislation (*see id.*). Section 4 (e) acknowledges that the redistricting procedure may not be followed where “a court is required to order the adoption of, or changes to, a redistricting plan as a remedy for a violation of law.” Section 5 further provides that upon a judicial finding that a redistricting law violates Article III, such law shall be “invalid in whole or in part,” and that “the legislature shall have a full and

reasonable opportunity to correct the law’s legal infirmities.” Here, the IRC initially submitted two redistricting plans by the first deadline. The legislature failed to approve either. When the IRC chose not to make another submission by the second deadline, the legislature drafted and approved redistricting implementing legislation which the Governor signed.<sup>1</sup>

Petitioners, residents of several New York districts, claim that the legislature avoided the exclusive redistricting process set forth in sections 4 and 5 by enacting redistricting legislation in the absence of an IRC submission by the second deadline, because a second IRC submission is a constitutional requirement that triggers the legislature’s authority to act. Petitioners further claim that the redistricting legislation is the product of intentional gerrymandering by the democratic members of the State legislature, in violation of section 4 (c) (5) of article III of the Constitution. As I discuss, petitioners are wrong as a matter of law on their procedural challenge and have failed to prove their gerrymandering allegation.

## II.

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<sup>1</sup> Contrary to the majority’s view, the IRC was not required to submit a different set of second plans. Indeed, the lead Republican IRC Commissioner noted that the Republican members of the IRC had considered agreeing to submit the same plans during the second round, but he concluded that “he would prefer for the Legislature to begin its process then postpone it one week with presumably voting down maps that he claims have not changed” (Joshua Solomon, *Independent Redistricting Commission Comes to a Likely Final Impasse*, Times Union [Jan. 24, 2022], <https://www.timesunion.com/state/article/Independent-Redistricting-Commission-comes-to-a-16800357.php>).

There is no procedural error of constitutional magnitude warranting invalidation of the legislature's redistricting implementing legislation. That conclusion is supported by either of two analytic paths.

A.

By one view, the process followed by the legislature here does not violate the text or purpose of article III because the IRC in fact submitted two plans, albeit all at once, in furtherance of the purpose of section 4, and, in any case, the legislature is not bound to approve an IRC plan as drafted.<sup>2</sup> Under that view, the legislature acted appropriately on the unique facts of this case. First, the Constitution does not mandate legislative adoption of any IRC-proposed implementing legislation; the legislature may opt to reject the IRC submissions and proceed to draft implementing legislation, which would then be submitted to the Governor for action (*see* NY Const, art III, § 4 [b]).<sup>3</sup> That is exactly what happened here. Second, the Constitution requires that in the event that more than one draft plan receives an equal number of IRC member votes for approval, above the votes garnered for any other plan, the IRC must submit all of those plans to the legislature in accordance with section 4 (b) of article III of the Constitution (*see id.* § 5-b [g]). Thus, if the IRC fails to

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<sup>2</sup> The majority incorrectly asserts that the legislature's alleged violation of the constitutional procedure is undisputed (*see* majority op at 2). In fact, respondents have maintained that the IRC, not the legislature, is at fault here.

<sup>3</sup> Several of the states cited by the majority (*see* majority op at 4 n 2) have adopted redistricting commissions which are not subject to legislative approval (*see e.g.* Cal Const, art XXI, § 2; Colo Const, art V, § 48; Mich Const, art 4, § 6; *see generally* Loyola Law School, *All About Redistricting: National Summary*, <https://redistricting.lls.edu/national-overview/?colorby=Institution&level=Congress&cycle=2020> [last visited Apr. 27, 2022]).

garner a majority vote, the IRC is empowered to submit more than one redistricting plan and implementing legislation for the legislature's consideration. That is also what happened here. Third, nothing in the Constitution expressly prohibits the legislature from acting if the IRC chooses not to submit yet another plan after the legislature has considered and failed to approve all the plans with the highest number of IRC votes. The Constitution is simply silent on how to address the IRC's choice to forego submission of a redistricting plan and implementing legislation before the second deadline. Nor does the constitutional framework command that the legislature remain idle in the face of an IRC decision not to submit a plan despite section 4 (b)'s mandatory language setting forth deadlines for submission. The Constitution requires the legislature approve redistricting legislation, upon consideration of one IRC plan and, if necessary, a second plan. The legislature did exactly that, reviewing two IRC plans and determining not to approve either, but instead adopting legislation which it maintains wholly comports with the Constitution.<sup>4</sup> The majority's decision leaves the legislature hostage to the IRC, and thus incentivizes political gamesmanship by the IRC members—the exact scenario the majority claims it avoids by interpreting the second IRC submission as a mandatory predicate to legislative action (*see* majority op at 20).

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<sup>4</sup> The majority, in claiming that my view ignores the constitutional text and purpose (*see* majority op at 16 n 8), ignores that under the unique facts here, we must harmonize the constitutional process with the overriding intent of the amendment—to create a process for public, bipartisan input in redistricting to provide the legislature with background data and options for redistricting. The majority view rests on a distinction without a difference; had the IRC merely submitted the competing plans in succession, and if the legislature had not approved either, the majority would conclude, as I do, that there was no procedural error.

The majority claims that upholding the legislative action here would undermine the redistricting process adopted by the 2014 constitutional amendment and thwart the purpose of the amendment (*see id.* at 23). That is only true if we ignore the salutary aspects of the entire redistricting process and how it informs the legislature's decisions. Under the Constitution, the IRC is tasked with drafting proposed districts that are contiguous, compact, and equipopulous, while considering the maintenance of cores of existing districts and political subdivisions, and avoiding line-drawing that denies or abridges the rights of communities of interest, including racial and minority language groups, or the formation of districts that favor or disfavor political candidates or parties (*see* NY Const, art III, § 4 [c]). The goal of fair, non-gerrymandered line drawing is furthered, in part, by a robust public hearing and comment process that allows the IRC to consider diverse viewpoints when preparing its redistricting plan (*see id.*). In turn, the legislature benefits from this same process when it considers the IRC's draft plan. Here, in accordance with the Constitution, the legislature considered both of the plans submitted by the IRC, fully aware of the public process that preceded the approval of both plans by a concededly split IRC membership. Unfortunately, like the IRC, the legislature could not agree on only one of those plans. When the IRC chose not to make a submission by the second deadline—of a plan that would be subject to legislative amendment, unlike the two plans submitted by the first deadline—nothing in the Constitution prohibited the legislature from drafting and approving redistricting legislation that it determined was in compliance with the constitutional mandates set forth in article III.

The majority also concludes that the legislature may only may “amend[]” redistricting plans submitted by the IRC (*see* majority op at 14, quoting NY Const, art III, § 4 [b]). The extent of the legislature’s authority to redraw the IRC’s proposed maps, however, is not before us since that did not occur here. Moreover, the majority’s interpretation ignores that legislative plans may include “*any* amendments” that are “deem[ed] necessary” (NY Const, art III, § 4 [b]), giving the legislature significant discretion to reject the IRC’s proposals. Likewise, the two percent rule—which the majority seems to interpret as a constitutional requirement (*see* majority op at 21 n 11)—is also not properly before us, and in any case, that statutory rule applies only when the IRC submits a plan by the second deadline, which concededly it did not do. In sum, the majority is incorrect that the legislature’s authority to approve redistricting legislation is subject to the two percent rule after it decides not to approve the first IRC plan as drafted because that legislative authority can only be triggered after the IRC submits a plan pursuant to the second deadline.

Even assuming the majority is correct that the Constitution provides the legislature with express and exclusive choices—either approve, as drafted, the IRC implementing legislation submitted by the first or the second constitutional deadlines, or don’t approve either and amend and approve bicamerally the second submission which is then presented to the governor for action—the majority correctly concedes that the legislature is not required to adopt, without change, the IRC recommendations (*see* majority op at 13-14). Instead, the legislature must exercise its constitutional duty to ensure that New York’s

district lines comply with the constitutional factors set forth in Article III and do not otherwise violate federal or state law (*see* NY Const, art III, § 4 [c]; Voting Rights Act of 1965, 52 USC § 10101 *et seq.*, as added by Pub L 89-110, 79 US Stat 437). As this Court has made clear, redistricting is a complex and intricate task, involving a “[b]alancing” of “myriad requirements imposed by both the State and the Federal Constitution,” which is ultimately “entrusted to the legislature” (*Matter of Wolpoff v Cuomo*, 80 NY2d 70, 79 [1992]; *see Matter of Schneider v Rockefeller*, 31 NY2d 420, 431 [1972] [“The gerrymandering is . . . rather deep in the ‘political thicket’”]). Thus, and contrary to the majority’s conclusion (*see* majority op at 18-19), the legislature was not required to ignore its constitutional duty because the IRC “abandon[ed] its constitutional mandate” (*id.* at 23). And, despite the majority rhetoric about redistricting reform—that the IRC process was designed to “incentiviz[e] the legislature to encourage and support fair bipartisan participation and compromise throughout the redistricting process” (*id.* at 20)—it is the majority’s interpretation of the Constitution that effectively places the redistricting process at the mercy of the IRC, which cannot be what the People of the State of New York intended when they approved the amendment and even though the Constitution does not mandate legislative approval of any IRC plan. Indeed, recognition that the legislature retains the ultimate authority to enact a redistricting plan does not, as the majority posits, “render the 2014 amendments . . . functionally meaningless” (*id.* at 11); it merely confirms that the legislature must step in when the IRC fails in its task.

B.

Even if the plain text of the Constitution did not support the legislative action taken here, there is an alternative analytic basis for rejecting the petitioners' procedural argument. The constitution is silent as to how to respond when the IRC does not submit a plan in accordance with Article III, as in this case where the IRC chooses not to make a second deadline submission. Notably, petitioners did not sue the IRC to secure compliance with what they and the majority maintain is the "*exclusive* method of redistricting" (majority op at 20). Nor have petitioners requested the courts to adopt either of the IRC plans even though petitioners, like the majority, claim that the IRC's submissions are a constitutional predicate to legislative action (*see id.* at 21).

However, the legislature anticipated just such a failure in the IRC process by passage of an amendment to the Redistricting Reform Act of 2012 (L 2012, ch 17), which provides that "if the commission does not vote on any redistricting plan or plans, for any reason, by the date required for submission of such plan and the commission submitted to the legislature . . . all plans in its possession, both completed and in draft form, and the data upon which such plans are based, each house shall introduce such implementing legislation with any amendments each house deems necessary"(see Redistricting Reform Act § 3 [c],

as amended by L 2021, ch 633, § 1).<sup>5</sup> That statute, having been properly enacted, controls and provided the legislature with the authority to act as it did here.<sup>6</sup>

### III.

Turning to petitioners second claim, that the legislative plan is an unlawful gerrymander, we review this challenge, like other constitutional attacks on redistricting plans, de novo and not, as the majority suggests, under a deferential standard of review (*see Matter of Wolpoff*, 80 NY2d at 78 [(“W)e examine the balance struck by the (l)egislature in its effort to harmonize competing Federal and State requirements”]; *Matter of Schneider*, 31 NY2d at 427 [“Our duty is . . . to determine whether the legislative plan substantially complies with the Federal and State Constitutions”]). Thus, petitioners are held to the highest burden in our law—one generally enshrined in criminal law—proof beyond a reasonable doubt:

“A strong presumption of constitutionality attaches to the redistricting plan and we will upset the balance struck by the Legislature and declare the plan unconstitutional ‘only when it can be shown beyond reasonable doubt that it conflicts with the fundamental law, and that until every reasonable mode of reconciliation of the statute with the Constitution has been

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<sup>5</sup> The majority’s discussion of the legislative history of the 2014 amendment is incomplete (*see* majority op at 18-20). Several legislators and commentators recognized, prior to adoption, that—contrary to the views of its sponsors—the amendment did not guarantee that the IRC would follow the constitutional process (*see e.g.* NY Senate Debate on Assembly Bill A2086, Jan. 23, 2013 at 252 [warning that an evenly-divided IRC might “foster gridlock”]).

<sup>6</sup> The statute’s two percent rule would also control. If failure to comply with that rule were the sole alleged problem with the legislature’s redistricting plan, the courts could mandate compliance as a targeted and narrow remedy rather than reject the entire redistricting plan as the majority does, thus creating confusion for candidates and their supporters, and necessitating the adoption of new deadlines (*see* majority op at 29-30; Troutman dissenting op at 4).

resorted to, and reconciliation has been found impossible” (*Matter of Wolpoff*, 80 NY2d at 78, quoting *Matter of Fay*, 291 NY 198, 207 [1943]; accord *Cohen v Cuomo*, 19 NY3d 196, 201-202 [2012]).

Upon review of the record before us, I conclude that petitioners failed to meet their heavy burden. As three justices concluded below, and as Judge Wilson explains, other than the petitioners’ expert analysis alleging gerrymandering, the petitioners’ other evidence cannot satisfy their burden of proof (*see Matter of Harkenrider*, — AD3d at —, 2022 NY Slip Op 02648, \*4 [plurality]; Wilson dissenting op at 25-28).<sup>7</sup> I have already discussed why there was no constitutional procedural violation, but even if there had been, the legislature’s approval of a redistricting plan in the absence of a second IRC submission does not establish intentional gerrymandering. This case does not rest on “the credibility issue routinely seen in battle-of-the-experts cases,” but rather turns on petitioners’ expert evidence and its “probative force . . . regardless of respondents’ opposition” (*id.* at —, 2022 NY Slip Op 02648, \*8 [Whalen, P.J., and Winslow, J., dissenting in part]). For reasons discussed at length in Judge Wilson’s thorough and compelling analysis of petitioner’s evidence and gerrymandering claim, which I fully join, petitioners failed to carry their burden. In sum, petitioners relied on an expert who failed to account for several

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<sup>7</sup> With respect to one of those alleged grounds, the majority is incorrect to the extent that it suggests that the legislature did not consider Republican views (*see* majority op at 6 n 3). As Judge Troutman and Judge Wilson explain in their dissents, the legislature enacted a plan that includes similar Upstate boundaries as the two IRC plans actually submitted to the legislature (*see* Troutman dissenting op at 3; Wilson dissenting op at 12-14). As for the other ground—that the legislature’s redistricting differs from the 2012 district lines—the purpose of redistricting is to address demographic changes and so it is no surprise that population shifts in New York State would result in a different redistricting map in accordance with constitutional requirements (*see* Wilson dissenting op at 21-22).

constitutional requirements and who used an untested, unverified algorithm (*see* Wilson dissenting op at 5-6; *cf. People v Wakefield*, — NY3d —, —, 2022 NY Slip Op 02771, \*15-19 [2022, Rivera, J., concurring in result]). No district line drawer could do so and still comply with the Constitution.

I dissent.

Order modified, with costs to petitioners, in accordance with the opinion herein and, as so modified, affirmed. Opinion by Chief Judge DiFiore. Judges Garcia, Singas and Cannataro concur. Judge Troutman dissents in part in an opinion, in which Judge Wilson concurs in part in a dissenting opinion, in which Judge Rivera concurs in part. Judge Rivera dissents in a separate dissenting opinion, in which Judge Wilson concurs.

Decided April 27, 2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF STEUBEN

Index No. E2022-0116CV

TIM HARKENRIDER, GUY C. BROUGHT,  
LAWRENCE CANNING, PATRICIA CLARINO,  
GEORGE DOOHER, JR., STEVEN EVANS, LINDA  
FANTON, JERRY FISHMAN, JAY FRANTZ,  
LAWRENCE GARVEY, ALAN NEWPHEW,  
SUSAN ROWLEY, JOSEPHINE THOMAS, and  
MARIANNE VOLANTE,

Petitioners,

-against-

PRELIMINARY ORDER

GOVERNOR KATHY HOCHUL, LIEUTENANT  
GOVERNOR AND PRESIDENT OF THE SENATE  
BRIAN A. BENJAMIN, SENATE MAJORITY LEADER  
AND PRESIDENT PRO TEMPORE OF THE SENATE  
ANDREA STEWART-COUSINS, SPEAKER OF THE  
ASSEMBLY CARL HEASTIE, NEW YORK STATE  
BOARD OF ELECTIONS, and THE NEW YORK STATE  
LEGISLATIVE TASK FORCE ON DEMOGRAPHIC  
RESEARCH AND REAPPORTIONMENT,

Respondents.

PRESENT: Hon. Patrick F. McAllister  
Acting Supreme Court Justice

The Court of Appeals Opinion dated April 27, 2022 declared the recently enacted Congressional and State Senate redistricting maps to be unconstitutional and further directed this Court to have an independent special master develop both new Congressional and State Senate maps. This court appointed Dr. Jonathan Cervas to serve as the special master. Based on the current time pressure and after consulting with special master Cervas and the State Board of Elections this court is issuing the following preliminary order with regard to when the redistricting maps will be completed; when the primary for the Congressional and State Senate will be held; and when the military and other overseas ballots will need to be mailed. A further more detailed order will follow with regard to ballot access and other issues.

This order will only pertain to the Congressional and State Senate primary elections. It will be up to the Legislature to determine whether or not to continue the June primary for all

other offices or whether the Legislature will want to change the currently scheduled June primary to coincide with the Congressional and State Senate primary.

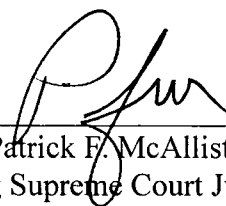
NOW, therefore, upon consideration of all papers and proceedings heretofore had herein, and after due deliberation, it is

**ORDERED** that the new 2022 impartial redistricting maps for the Congressional and State Senate districts to be prepared by Special Master Dr. Jonathan Cervas will be available by May 20, 2022; and it is further

**ORDERED** that the 2022 primary for the Congressional and State Senate elections will be held on Tuesday, August 23, 2022; and it is further

**ORDERED** that the deadline for military and overseas ballots to be mailed will be July 8, 2022.

Dated: April 29, 2022



Hon. Patrick F. McAllister  
Acting Supreme Court Justice

ENTER

# STATE OF NEW YORK

S. 8172--A

A. 9039--A

## SENATE - ASSEMBLY

January 30, 2022

IN SENATE -- Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state law, in relation to creation of congressional districts; and to repeal article 7 of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 7 of the state law is REPEALED and a new article 7  
2 is added to read as follows:

3 ARTICLE 7  
4 CONGRESSIONAL DISTRICTS

5 Section 110. Present congressional districts.

6 111. New congressional districts.

7 112. Separability of congressional districts.

8 § 110. Present congressional districts. The congressional districts  
9 of this state, as existing immediately before the effective date of this  
10 article, shall continue to be the congressional districts of the state  
11 until the expiration of the terms of the representatives in congress  
12 then in office, except for the purpose of an election of representatives  
13 in congress for full terms beginning at such expirations.

14 § 111. New congressional districts. Notwithstanding any other  
15 provision of law to the contrary, the congressional districts of this  
16 state from and after the effective date of this article, shall consist  
17 as follows:

18 1. Congressional District 1.

19 Within Suffolk County

20 All of East Hampton town

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD14150-03-2

- 1 All of Riverhead town
- 2 All of Shelter Island town
- 3 All of Shinnecock Reservation
- 4 All of Southold town
- 5 Within Nassau County
- 6 Within Oyster Bay town:
- 7 Tract: 519601
- 8 Tract: 519602
- 9 Tract: 519702
- 10 Tract: 519703
- 11 Tract: 519704
- 12 Tract: 519801
- 13 Tract: 519802
- 14 Tract: 520100
- 15 Within Suffolk County
- 16 Within Babylon town:
- 17 Tract: 122300
- 18 Tract: 122405
- 19 Tract: 122406
- 20 Tract: 122407
- 21 Tract: 122408
- 22 Tract: 122501
- 23 Tract: 122502
- 24 Tract: 122602
- 25 Tract: 122603
- 26 Tract: 122604
- 27 Tract: 122605
- 28 Tract: 122704
- 29 Tract: 122705
- 30 Tract: 122706
- 31 Tract: 122707
- 32 Tract: 122801
- 33 Tract: 122802
- 34 Tract: 122901
- 35 Tract: 123101
- 36 Tract: 123102
- 37 Tract: 123201
- 38 Tract: 123203
- 39 Tract: 123204
- 40 Tract: 123303
- 41 Tract: 123304
- 42 Tract: 123401
- 43 Tract: 123403
- 44 Tract: 123404
- 45 Within Brookhaven town:
- 46 Tract: 158001
- 47 Tract: 158009
- 48 Tract: 158010
- 49 Tract: 158011
- 50 Tract: 158012
- 51 Tract: 158013
- 52 Tract: 158014
- 53 Tract: 158015
- 54 Tract: 158016
- 55 Tract: 158017
- 56 Tract: 158102

S. 8172--A

3

A. 9039--A

- 1 Tract: 158103
- 2 Tract: 158107
- 3 Tract: 158108
- 4 Tract: 158114
- 5 Tract: 158117
- 6 Tract: 158118
- 7 Tract: 158119
- 8 Tract: 158205
- 9 Tract: 158206
- 10 Tract: 158207
- 11 Tract: 158208
- 12 Tract: 158209
- 13 Tract: 158304
- 14 Tract: 158306
- 15 Tract: 158309
- 16 Tract: 158310
- 17 Tract: 158315
- 18 Tract: 158317
- 19 Tract: 158318
- 20 Tract: 158319
- 21 Tract: 158320
- 22 Tract: 158322
- 23 Tract: 158324
- 24 Tract: 158325
- 25 Tract: 158326
- 26 Tract: 158327
- 27 Tract: 158328
- 28 Tract: 158329
- 29 Tract: 158401
- 30 Tract: 158402
- 31 Tract: 158403
- 32 Tract: 158407
- 33 Tract: 158408
- 34 Tract: 158409
- 35 Tract: 158410
- 36 Tract: 158411
- 37 Tract: 158412
- 38 Tract: 158705
- 39 Tract: 158708
- 40 Tract: 158710
- 41 Tract: 159700
- 42 Within Huntington town:
- 43 Tract: 112102
- 44 Tract: 112104
- 45 Tract: 112204
- 46 Tract: 112211
- 47 Tract: 112212
- 48 Tract: 112213
- 49 Tract: 112215
- 50 Tract: 112216
- 51 Tract: 112217
- 52 Tract: 112218
- 53 Tract: 112219
- 54 Tract: 112220
- 55 Within Islip town:
- 56 Tract: 145601

S. 8172--A

4

A. 9039--A

1 Tract: 145602  
2 Tract: 145603  
3 Tract: 145604  
4 Tract: 145605  
5 Tract: 145701  
6 Tract: 145702  
7 Tract: 145703  
8 Tract: 145705  
9 Tract: 145706  
10 Tract: 145804  
11 Tract: 145901  
12 Tract: 145904  
13 Tract: 145905  
14 Tract: 146001  
15 Tract: 146002  
16 Tract: 146004  
17 Tract: 146102  
18 Tract: 146105  
19 Tract: 146106  
20 Tract: 146201  
21 Tract: 146202  
22 Tract: 146203  
23 Tract: 146204  
24 Tract: 146300  
25 Tract: 146403  
26 Tract: 146404  
27 Tract: 146703  
28 Tract: 201200  
29 Within Smithtown town:  
30 Tract: 135002  
31 Tract: 135003  
32 Tract: 135005  
33 Tract: 135209  
34 Tract: 135303  
35 Tract: 135305  
36 Tract: 135306  
37 Tract: 135401  
38 Tract: 135402  
39 Within Southampton town:  
40 Tract: 190403  
41 Tract: 190404  
42 Tract: 190405  
43 Tract: 190603  
44 Tract: 190706  
45 Tract: 190708  
46 Tract: 190710  
47 Tract: 190711  
48 Tract: 190712  
49 Tract: 190713  
50 Tract: 190714  
51 Tract: 190801  
52 Tract: 190802  
53 Within Nassau County  
54 Within Oyster Bay town:  
55 Tract: 520002 Block: 1018  
56 Within Suffolk County



S. 8172--A

5

A. 9039--A

1 Within Babylon town:  
 2 Tract: 122902 Blocks: 1000-1016 2000-2014  
 3 Tract: 123001 Blocks: 1000-1037 2000-2039 3000-3032  
 4 Tract: 123002 Blocks: 1000-1053 2004-2007 2031 3000-3025 3034-3035  
 5 3043-3044 3049  
 6 Tract: 123500 Blocks: 1000-1013 2000-2030  
 7 Tract: 123701 Blocks: 1000-1011 1013-1026 1032 2003-2035 2043-2044  
 8 3000-3043  
 9 Tract: 123900 Blocks: 2003-2004 2011 3004-3012 3021-3029 3035-3036  
 10 3045  
 11 Within Brookhaven town:  
 12 Tract: 158111 Blocks: 1000-1019 2003-2007 2015  
 13 Tract: 158112 Blocks: 1000-1013 1017-1018 2000-2016  
 14 Tract: 158116 Blocks: 1000-1016 2000-2018 2020  
 15 Tract: 158120 Blocks: 1000-1011 2000-2022  
 16 Tract: 158505 Blocks: 1005 1007  
 17 Tract: 158511 Blocks: 3000-3001 3005-3006  
 18 Tract: 158715 Block: 1003  
 19 Tract: 990100 Blocks: 0038-0045 0049  
 20 Within Huntington town:  
 21 Tract: 111900 Blocks: 3015-3016  
 22 Within Islip town:  
 23 Tract: 145803 Blocks: 1000-1007 2000-2014 3000-3008 3011-3014  
 24 Tract: 145810 Block: 3038  
 25 Tract: 145903 Blocks: 1000-1032 2000-2016 2018-2043 3000-3020  
 26 4000-4019  
 27 Tract: 146005 Blocks: 1000-1040 1043-1045 1047 2000-2026 3000-3026  
 28 Tract: 146103 Blocks: 2001-2002 2009-2010 2012-2017 2020-2024  
 29 2026-2029 2033-2036  
 30 Tract: 146206 Blocks: 1000-1012 2000  
 31 Tract: 146402 Block: 1003  
 32 Tract: 146706 Blocks: 2017-2033  
 33 Tract: 147100 Blocks: 1006-1009 1022-1024  
 34 Tract: 147202 Blocks: 1021-1022  
 35 Tract: 147301 Blocks: 2001-2003  
 36 Within Smithtown town:  
 37 Tract: 134909 Blocks: 1019-2025  
 38 Tract: 135004 Blocks: 2005-2035  
 39 Tract: 145803 Blocks: 3009-3010  
 40 Within Southampton town:  
 41 Tract: 190402 Block: 1044  
 42 Tract: 190604 Blocks: 1000-1023 2000-2027 3000-3018 3022-3027  
 43 3030-3032  
 44 Tract: 190709 Blocks: 1011-1012 2000-2030 3000-3042  
 45 Tract: 990100 Blocks: 0017-0020  
 46 2. Congressional District 2.  
 47 Within Suffolk County  
 48 All of Poospatuck Reservation  
 49 Within Nassau County  
 50 Within Hempstead town:  
 51 Tract: 408600  
 52 Tract: 408700  
 53 Tract: 408800  
 54 Tract: 408900  
 55 Tract: 409000  
 56 Tract: 409100

S. 8172--A

6

A. 9039--A

1 Tract: 409200  
2 Tract: 409300  
3 Tract: 409400  
4 Tract: 409500  
5 Tract: 409600  
6 Tract: 409700  
7 Tract: 415500  
8 Tract: 416000  
9 Tract: 416100  
10 Tract: 522700  
11 Within Oyster Bay town:  
12 Tract: 519900  
13 Tract: 520001  
14 Tract: 520200  
15 Tract: 520300  
16 Tract: 520401  
17 Tract: 520402  
18 Tract: 520501  
19 Tract: 520502  
20 Tract: 520600  
21 Tract: 520700  
22 Tract: 520800  
23 Tract: 520900  
24 Tract: 521000  
25 Tract: 521100  
26 Tract: 521200  
27 Tract: 521301  
28 Tract: 521302  
29 Tract: 521400  
30 Tract: 521500  
31 Tract: 521601  
32 Tract: 521602  
33 Tract: 521700  
34 Tract: 521801  
35 Tract: 521802  
36 Tract: 521902  
37 Tract: 522000  
38 Tract: 990302  
39 Within Suffolk County  
40 Within Babylon town:  
41 Tract: 123600  
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43 Tract: 123704  
44 Tract: 123801  
45 Tract: 123802  
46 Tract: 124001  
47 Tract: 124002  
48 Tract: 124101  
49 Tract: 124102  
50 Tract: 124200  
51 Tract: 124301  
52 Tract: 124302  
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56 Tract: 124601



- 1 Tract: 124602
- 2 Within Brookhaven town:
- 3 Tract: 158502
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- 5 Tract: 158509
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- 26 Tract: 158901
- 27 Tract: 158902
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- 30 Tract: 159106
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- 4 Tract: 159603
- 5 Tract: 159604
- 6 Within Islip town:
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- 9 Tract: 145809
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- 11 Tract: 146500
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- 13 Tract: 146608
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- 44 Tract: 147803
- 45 Tract: 147804
- 46 Tract: 147901
- 47 Tract: 147902
- 48 Within Smithtown town:
- 49 Tract: 135403
- 50 Within Southampton town:
- 51 Tract: 190502
- 52 Tract: 190503
- 53 Tract: 190504
- 54 Tract: 190605
- 55 Tract: 190606
- 56 Within Nassau County

S. 8172--A

9

A. 9039--A

1 Within Hempstead town:  
 2 Tract: 416900 Block: 1003  
 3 Within Oyster Bay town:  
 4 Tract: 519000 Blocks: 1011-1013 1016-1022 2000-2015 3000-3010  
 5 4000-4010 5003-5012 6001-6004 6006-6015  
 6 Tract: 519100 Blocks: 1016-1022 2000-2009 3000-3012 4000-4014  
 7 5000-5010 6000-6015  
 8 Tract: 519200 Blocks: 1011 1013-1018 2003-2011 3000-3013 4000-4015  
 9 5000-5014 6000-6011  
 10 Tract: 519300 Blocks: 3013-3016 3018-3022 4015 4017-4024  
 11 Tract: 520002 Blocks: 1000-1017 1019-1023 2000-2015 3000-3008  
 12 4000-4026  
 13 Within Suffolk County  
 14 Within Babylon town:  
 15 Tract: 122902 Blocks: 3000-3011  
 16 Tract: 123001 Blocks: 2040-2042  
 17 Tract: 123002 Blocks: 2000-2003 2008-2030 2032-2050 3021 3026-3033  
 18 3036-3042 3045-3048  
 19 Tract: 123500 Blocks: 3000-3013 4000-4012 5000-5024  
 20 Tract: 123701 Blocks: 1012 1027-1031 2000-2002 2036-2042 2045  
 21 Tract: 123900 Blocks: 1000-1035 2000-2002 2005-2010 2012-2026  
 22 3000-3003 3013-3020 3030-3034 3037-3044  
 23 Tract: 990100 Block: 0030  
 24 Within Brookhaven town:  
 25 Tract: 158111 Blocks: 2000-2002 2008-2014 2016-2017  
 26 Tract: 158112 Blocks: 1014-2026  
 27 Tract: 158116 Block: 2019  
 28 Tract: 158120 Blocks: 2023-2024  
 29 Tract: 158505 Blocks: 1000-1004 1006 1008 1009-1023 2000-2019  
 30 3000-3002  
 31 Tract: 158511 Blocks: 1000-1019 2000-2024 3002-3004 3007-3022  
 32 Tract: 158715 Blocks: 1000-1002 1004-1012 2000-2012  
 33 Tract: 159511 Blocks: 1000-1031 2000-2014 2016 2021-2026 3000-3025  
 34 4000-4020  
 35 Tract: 990100 Blocks: 0025-0028 0031  
 36 Within Islip town:  
 37 Tract: 145810 Blocks: 1000-1005 2000-2024 3000-3037  
 38 Tract: 145903 Blocks: 2017 4020-4021  
 39 Tract: 146005 Blocks: 1041-1042 1046  
 40 Tract: 146103 Blocks: 1000-1039 2000 2003-2008 2011 2018-2019 2025  
 41 2030-2032 2037-2040  
 42 Tract: 146206 Blocks: 2001-2031  
 43 Tract: 146402 Blocks: 1000-1002 1004-1034 2000-2008 3000-3012  
 44 Tract: 146706 Blocks: 1000-1020 2000-2016 2034  
 45 Tract: 147100 Blocks: 1000-1005 1010-1021 1025-1043 2000-2033  
 46 3000-3053  
 47 Tract: 147202 Blocks: 1000-1020 1023-1033 2000-2012  
 48 Tract: 147301 Blocks: 1000-1044 2000 2004-2022  
 49 Tract: 990100 Block: 0029  
 50 Within Southampton town:  
 51 Tract: 190402 Blocks: 1000-1043 1045-1051 2000-2032  
 52 Tract: 190604 Blocks: 3019-3021 3028-3029  
 53 Tract: 990100 Blocks: 0021-0024  
 54 3. Congressional District 3.  
 55 Within Nassau County  
 56 All of Glen Cove city

1 Within Westchester County  
2 All of Pelham town  
3 All of Rye city  
4 All of Rye town  
5 Within Bronx County  
6 Within Bronx Borough:  
7 Tract: 011800  
8 Tract: 013800  
9 Tract: 015800  
10 Tract: 016000  
11 Tract: 016200  
12 Tract: 016400  
13 Tract: 027401  
14 Tract: 027402  
15 Tract: 051601  
16 Tract: 051602  
17 Within Nassau County  
18 Within North Hempstead town:  
19 Tract: 300100  
20 Tract: 300300  
21 Tract: 300400  
22 Tract: 300500  
23 Tract: 300600  
24 Tract: 300700  
25 Tract: 300800  
26 Tract: 300902  
27 Tract: 301000  
28 Tract: 301101  
29 Tract: 301102  
30 Tract: 301200  
31 Tract: 301300  
32 Tract: 301400  
33 Tract: 301500  
34 Tract: 301600  
35 Tract: 301700  
36 Tract: 301800  
37 Tract: 301900  
38 Tract: 302000  
39 Tract: 302101  
40 Tract: 302102  
41 Tract: 302200  
42 Tract: 302502  
43 Tract: 990100  
44 Within Oyster Bay town:  
45 Tract: 517400  
46 Tract: 517500  
47 Tract: 517600  
48 Tract: 517701  
49 Tract: 517705  
50 Tract: 517801  
51 Tract: 517802  
52 Tract: 517901  
53 Tract: 517902  
54 Tract: 518000  
55 Tract: 518100  
56 Tract: 518201



- 1 Tract: 518203
- 2 Tract: 518204
- 3 Tract: 518300
- 4 Tract: 518400
- 5 Tract: 518501
- 6 Tract: 518502
- 7 Tract: 518600
- 8 Tract: 518700
- 9 Tract: 518800
- 10 Tract: 518900
- 11 Tract: 519400
- 12 Tract: 519500
- 13 Tract: 981100
- 14 Tract: 982100
- 15 Tract: 990301
- 16 Within Queens County
- 17 Within Queens Borough:
- 18 Tract: 099900
- 19 Tract: 147900
- 20 Tract: 148300
- 21 Tract: 150701
- 22 Tract: 150702
- 23 Tract: 152901
- 24 Tract: 152902
- 25 Tract: 155101
- 26 Tract: 155103
- 27 Tract: 155104
- 28 Tract: 156700
- 29 Tract: 157101
- 30 Tract: 157102
- 31 Tract: 157901
- 32 Tract: 157902
- 33 Tract: 157903
- 34 Tract: 161700
- 35 Tract: 162100
- 36 Within Suffolk County
- 37 Within Huntington town:
- 38 Tract: 110101
- 39 Tract: 110103
- 40 Tract: 110104
- 41 Tract: 110200
- 42 Tract: 110300
- 43 Tract: 110401
- 44 Tract: 110402
- 45 Tract: 110501
- 46 Tract: 110502
- 47 Tract: 110601
- 48 Tract: 110602
- 49 Tract: 110801
- 50 Tract: 110803
- 51 Tract: 110901
- 52 Tract: 110902
- 53 Tract: 111001
- 54 Tract: 111002
- 55 Tract: 111101
- 56 Tract: 111102

S. 8172--A

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A. 9039--A

1 Tract: 111103  
2 Tract: 111201  
3 Tract: 111202  
4 Tract: 111300  
5 Tract: 111401  
6 Tract: 111402  
7 Tract: 111503  
8 Tract: 111504  
9 Tract: 111506  
10 Tract: 111507  
11 Tract: 111508  
12 Tract: 111601  
13 Tract: 111602  
14 Tract: 111701  
15 Tract: 111703  
16 Tract: 111704  
17 Tract: 111801  
18 Tract: 111802  
19 Tract: 111803  
20 Tract: 111804  
21 Tract: 112001  
22 Tract: 112002  
23 Tract: 112103  
24 Within Smithtown town:  
25 Tract: 134702  
26 Tract: 134703  
27 Tract: 134704  
28 Tract: 134902  
29 Tract: 134906  
30 Tract: 134907  
31 Tract: 134908  
32 Tract: 135101  
33 Tract: 135102  
34 Tract: 135103  
35 Tract: 135104  
36 Tract: 135201  
37 Tract: 135205  
38 Tract: 135208  
39 Tract: 135500  
40 Within Westchester County  
41 Within Mamaroneck town:  
42 Tract: 007000  
43 Tract: 007100  
44 Tract: 007200  
45 Tract: 007300  
46 Tract: 005600  
47 Tract: 005702  
48 Tract: 005703  
49 Tract: 005704  
50 Tract: 005800  
51 Tract: 005901  
52 Tract: 005902  
53 Tract: 006000  
54 Within Bronx County  
55 Within Bronx Borough:  
56 Tract: 013000 Blocks: 1000-1005 1009 3000-3001 3005-3009 4006-4008



1 Tract: 018400 Blocks: 1000-1006 2000-2002 2006-2007 2010  
 2 Tract: 026400 Blocks: 1000-1008  
 3 Tract: 027600 Blocks: 0002 1000-1004 1015 1020-1021 1023-1027  
 4 Tract: 045600 Blocks: 3000-3025  
 5 Tract: 050400 Blocks: 0001-0005  
 6 Tract: 050400 Blocks: 1000 1005-1009 1011 1013-1014 1017-1020  
 7 Within Nassau County  
 8 Within North Hempstead town:  
 9 Tract: 300901 Blocks: 1000-1016 2000-2015 3000-3013 3018-3024  
 10 Tract: 302300 Blocks: 1000-1019 2000-2003 2005-2013 3000-3020  
 11 Tract: 302400 Blocks: 1000-1008 1011-1012 2001-2005 3000-3014  
 12 4000-4008 4010  
 13 Tract: 302501 Blocks: 1000-1004 2000-2009 2018-2022  
 14 Tract: 303101 Blocks: 1000-1006 3000-3012  
 15 Within Oyster Bay town:  
 16 Tract: 519000 Blocks: 1000-1010 1014-1015 5000-5002 6000 6005  
 17 Tract: 519100 Blocks: 1000-1015 1023  
 18 Tract: 519200 Blocks: 1000-1012 2000-2002  
 19 Tract: 519300 Blocks: 1000-1049 2000-2018 3000-3012 3017 3023-3030  
 20 4000-4014 4016 5000-5024  
 21 Within Queens County  
 22 Within Queens Borough:  
 23 Tract: 055400 Blocks: 2000-2002 2007  
 24 Tract: 056000 Blocks: 1000-1005 1007-1008  
 25 Tract: 056200 Blocks: 1000-1011  
 26 Tract: 056400 Blocks: 1000-1001 1003 1013  
 27 Tract: 098700 Block: 0001  
 28 Tract: 099100 Blocks: 0001 1000 2000 3000-3004 3006-3014 3016 4000  
 29 4021-4022 5013  
 30 Tract: 099703 Blocks: 1000-1008 2000-2003 3000-3004 3006-3007  
 31 Tract: 099704 Blocks: 1000-1001 2000-2001 4000  
 32 Tract: 099705 Blocks: 0001-0002 1000-1006  
 33 Tract: 101700 Blocks: 6000-6005  
 34 Tract: 109300 Blocks: 0001 2000 2015 2017  
 35 Tract: 111300 Blocks: 0001 1000-1001  
 36 Tract: 130100 Blocks: 1000-1009 1011 2000-2003 3000-3010 4000-4005  
 37 Tract: 138502 Blocks: 1000-1003 1007-1015 1020-1021 1025  
 38 Within Suffolk County  
 39 Within Huntington town:  
 40 Tract: 111900 Blocks: 1000-1027 2000-2009 3000-3014 3017-3026  
 41 4000-4021 5000-5007 6000-6014  
 42 Tract: 990100 Blocks: 0048 0053-0055  
 43 Within Smithtown town:  
 44 Tract: 134909 Blocks: 1000-1018 1020-1023 3000-3017  
 45 Tract: 135004 Blocks: 1000-1017 2000-2004  
 46 Tract: 990100 Blocks: 0046-0047 0050-0051  
 47 Within Westchester County  
 48 Within Mamaroneck town:  
 49 Tract: 006900 Blocks: 1000-1025 2000-2008 2010-2016 3000-3038  
 50 4000-4006 5000-5009  
 51 Within New Rochelle city:  
 52 Tract: 006100 Blocks: 1000-1009 1011 2000-2011 3011-3012  
 53 Tract: 006302 Blocks: 1011 1015-1018 2001-2004  
 54 Tract: 006500 Blocks: 3007-3011 3019-3021 4008-4009  
 55 4. Congressional District 4.  
 56 Within Nassau County



- 1 All of Long Beach city
- 2 Within Hempstead town:
- 3 Tract: 404300
- 4 Tract: 404400
- 5 Tract: 404500
- 6 Tract: 404700
- 7 Tract: 405301
- 8 Tract: 405302
- 9 Tract: 405500
- 10 Tract: 405600
- 11 Tract: 405700
- 12 Tract: 405800
- 13 Tract: 405900
- 14 Tract: 406001
- 15 Tract: 406002
- 16 Tract: 406100
- 17 Tract: 406201
- 18 Tract: 406202
- 19 Tract: 406300
- 20 Tract: 406400
- 21 Tract: 406501
- 22 Tract: 406600
- 23 Tract: 406701
- 24 Tract: 406702
- 25 Tract: 406801
- 26 Tract: 406802
- 27 Tract: 406900
- 28 Tract: 407000
- 29 Tract: 407101
- 30 Tract: 407102
- 31 Tract: 407201
- 32 Tract: 407203
- 33 Tract: 407204
- 34 Tract: 407301
- 35 Tract: 407302
- 36 Tract: 407401
- 37 Tract: 407402
- 38 Tract: 407501
- 39 Tract: 407502
- 40 Tract: 407600
- 41 Tract: 407700
- 42 Tract: 407801
- 43 Tract: 407802
- 44 Tract: 407900
- 45 Tract: 408000
- 46 Tract: 408100
- 47 Tract: 408200
- 48 Tract: 408300
- 49 Tract: 408400
- 50 Tract: 408500
- 51 Tract: 410100
- 52 Tract: 410200
- 53 Tract: 410600
- 54 Tract: 410700
- 55 Tract: 411200
- 56 Tract: 411302

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A. 9039--A

1 Tract: 411400  
2 Tract: 411500  
3 Tract: 411700  
4 Tract: 411800  
5 Tract: 411901  
6 Tract: 411902  
7 Tract: 412000  
8 Tract: 412100  
9 Tract: 412200  
10 Tract: 412301  
11 Tract: 412302  
12 Tract: 412400  
13 Tract: 412500  
14 Tract: 412600  
15 Tract: 412700  
16 Tract: 412800  
17 Tract: 412900  
18 Tract: 413001  
19 Tract: 413002  
20 Tract: 413100  
21 Tract: 413200  
22 Tract: 413300  
23 Tract: 413400  
24 Tract: 413500  
25 Tract: 413600  
26 Tract: 413700  
27 Tract: 413803  
28 Tract: 413804  
29 Tract: 413900  
30 Tract: 414001  
31 Tract: 414002  
32 Tract: 414100  
33 Tract: 414201  
34 Tract: 414202  
35 Tract: 414301  
36 Tract: 414303  
37 Tract: 414304  
38 Tract: 414400  
39 Tract: 414501  
40 Tract: 414502  
41 Tract: 414600  
42 Tract: 414700  
43 Tract: 414800  
44 Tract: 414900  
45 Tract: 415000  
46 Tract: 415101  
47 Tract: 415102  
48 Tract: 415201  
49 Tract: 415202  
50 Tract: 415300  
51 Tract: 415401  
52 Tract: 415402  
53 Tract: 415600  
54 Tract: 415700  
55 Tract: 415802  
56 Tract: 416201



1 Tract: 416202  
 2 Tract: 416300  
 3 Tract: 990400  
 4 Tract: 980100  
 5 Within Nassau County  
 6 Within North Hempstead town:  
 7 Tract: 302600  
 8 Tract: 302700  
 9 Tract: 302800  
 10 Tract: 302900  
 11 Tract: 303000  
 12 Tract: 303102  
 13 Tract: 303203  
 14 Tract: 303204  
 15 Tract: 303301  
 16 Tract: 303302  
 17 Tract: 303400  
 18 Tract: 303500  
 19 Tract: 303600  
 20 Tract: 303700  
 21 Tract: 303800  
 22 Tract: 303900  
 23 Tract: 304001  
 24 Tract: 304002  
 25 Tract: 304100  
 26 Tract: 304202  
 27 Tract: 304203  
 28 Tract: 304204  
 29 Within Hempstead town:  
 30 Tract: 404600 Blocks: 1000-1013 2000-2011 2013-2014 3000-3009  
 31 4000-4013  
 32 Tract: 404800 Blocks: 1000-1023 1025 2000-2009 2013-2018 3006 3008  
 33 Tract: 405200 Blocks: 4003 4015-4016  
 34 Tract: 405400 Blocks: 1000-1022 2000-2013 3000-3001 3005 3013-3014  
 35 3016 4000-4013 5000-5012 6000-6011  
 36 Tract: 409900 Blocks: 2036-2037  
 37 Tract: 410000 Blocks: 1000-1008 1013 3000-3030  
 38 Tract: 410500 Blocks: 1000-1016 2000-2015 3000-3003 3011-3020  
 39 3022-3024 3027-3028 5000-5008 5010-5011 5022  
 40 Tract: 410800 Blocks: 1000-1021 2000-2026 3000-3013 4000-4002  
 41 4005-4009 4012-4032  
 42 Tract: 410900 Blocks: 3000-3010 4000-4019  
 43 Tract: 411000 Block: 1000  
 44 Tract: 411301 Blocks: 1000-1009 1018-1021 1025-1026 2000-2014  
 45 3000-3016  
 46 Tract: 411600 Blocks: 1000-1013 2000-2030 3000-3016 3020 3022-3033  
 47 4000-4013 5000-5009  
 48 Tract: 416900 Blocks: 1000-1002 1004-1117 2000-2032 3000-3026  
 49 Within North Hempstead town:  
 50 Tract: 300901 Blocks: 3014-3017  
 51 Tract: 302300 Blocks: 2004 2014  
 52 Tract: 302400 Blocks: 1009-1010 1013-1025 2000 2006-2014 4009  
 53 5000-5020  
 54 Tract: 302501 Blocks: 1005-1019 2010-2017 2023-2026  
 55 Tract: 303101 Blocks: 1007-1014 2000-2013 3013-3025  
 56 5. Congressional District 5.

- 1 Within Nassau County
- 2 Within Hempstead town:
- 3 Tract: 404901
- 4 Tract: 404902
- 5 Tract: 405000
- 6 Tract: 405100
- 7 Tract: 409800
- 8 Tract: 410300
- 9 Tract: 410400
- 10 Tract: 411100
- 11 Within Queens County
- 12 Within Queens Borough:
- 13 Tract: 010000
- 14 Tract: 010200
- 15 Tract: 010400
- 16 Tract: 010600
- 17 Tract: 010800
- 18 Tract: 012000
- 19 Tract: 012200
- 20 Tract: 013200
- 21 Tract: 014201
- 22 Tract: 014202
- 23 Tract: 014400
- 24 Tract: 014800
- 25 Tract: 015000
- 26 Tract: 015200
- 27 Tract: 015400
- 28 Tract: 015600
- 29 Tract: 015801
- 30 Tract: 015802
- 31 Tract: 016400
- 32 Tract: 016600
- 33 Tract: 016800
- 34 Tract: 017000
- 35 Tract: 017200
- 36 Tract: 017400
- 37 Tract: 017600
- 38 Tract: 017800
- 39 Tract: 018000
- 40 Tract: 018200
- 41 Tract: 018401
- 42 Tract: 018402
- 43 Tract: 018600
- 44 Tract: 018800
- 45 Tract: 019000
- 46 Tract: 019200
- 47 Tract: 019400
- 48 Tract: 019600
- 49 Tract: 019800
- 50 Tract: 020200
- 51 Tract: 020400
- 52 Tract: 020600
- 53 Tract: 020800
- 54 Tract: 021200
- 55 Tract: 021602
- 56 Tract: 024000

1 Tract: 024600  
2 Tract: 025401  
3 Tract: 025402  
4 Tract: 025800  
5 Tract: 026000  
6 Tract: 026200  
7 Tract: 026400  
8 Tract: 026600  
9 Tract: 027000  
10 Tract: 027200  
11 Tract: 027400  
12 Tract: 027600  
13 Tract: 027800  
14 Tract: 028000  
15 Tract: 028200  
16 Tract: 028400  
17 Tract: 028801  
18 Tract: 028802  
19 Tract: 028803  
20 Tract: 029400  
21 Tract: 030600  
22 Tract: 032000  
23 Tract: 032800  
24 Tract: 033000  
25 Tract: 033401  
26 Tract: 033403  
27 Tract: 033404  
28 Tract: 033405  
29 Tract: 035200  
30 Tract: 035800  
31 Tract: 036600  
32 Tract: 036800  
33 Tract: 037600  
34 Tract: 038400  
35 Tract: 039400  
36 Tract: 039800  
37 Tract: 040000  
38 Tract: 040200  
39 Tract: 040400  
40 Tract: 041400  
41 Tract: 042400  
42 Tract: 042600  
43 Tract: 043200  
44 Tract: 043400  
45 Tract: 044000  
46 Tract: 044400  
47 Tract: 044601  
48 Tract: 044602  
49 Tract: 046000  
50 Tract: 046200  
51 Tract: 046400  
52 Tract: 046600  
53 Tract: 046800  
54 Tract: 047000  
55 Tract: 047200  
56 Tract: 047600



- 1 Tract: 047801
- 2 Tract: 047802
- 3 Tract: 048000
- 4 Tract: 048200
- 5 Tract: 048400
- 6 Tract: 049201
- 7 Tract: 049202
- 8 Tract: 049600
- 9 Tract: 050000
- 10 Tract: 050201
- 11 Tract: 050202
- 12 Tract: 050400
- 13 Tract: 050600
- 14 Tract: 050800
- 15 Tract: 051000
- 16 Tract: 051200
- 17 Tract: 051600
- 18 Tract: 051800
- 19 Tract: 052000
- 20 Tract: 052200
- 21 Tract: 052400
- 22 Tract: 052600
- 23 Tract: 052800
- 24 Tract: 053000
- 25 Tract: 053200
- 26 Tract: 053401
- 27 Tract: 053601
- 28 Tract: 053800
- 29 Tract: 054000
- 30 Tract: 054200
- 31 Tract: 054800
- 32 Tract: 055600
- 33 Tract: 055800
- 34 Tract: 056600
- 35 Tract: 056800
- 36 Tract: 058000
- 37 Tract: 058200
- 38 Tract: 059000
- 39 Tract: 059200
- 40 Tract: 059400
- 41 Tract: 059600
- 42 Tract: 059800
- 43 Tract: 060000
- 44 Tract: 060600
- 45 Tract: 060800
- 46 Tract: 061000
- 47 Tract: 061200
- 48 Tract: 061400
- 49 Tract: 061601
- 50 Tract: 061602
- 51 Tract: 061800
- 52 Tract: 062000
- 53 Tract: 062200
- 54 Tract: 062400
- 55 Tract: 062600
- 56 Tract: 063000

S. 8172--A

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A. 9039--A

1 Tract: 063200  
2 Tract: 063800  
3 Tract: 064600  
4 Tract: 065000  
5 Tract: 065401  
6 Tract: 065402  
7 Tract: 065600  
8 Tract: 066000  
9 Tract: 066401  
10 Tract: 066402  
11 Tract: 066403  
12 Tract: 066404  
13 Tract: 068000  
14 Tract: 068200  
15 Tract: 069000  
16 Tract: 069400  
17 Tract: 071600  
18 Tract: 078800  
19 Tract: 079000  
20 Tract: 079200  
21 Tract: 081400  
22 Tract: 081800  
23 Tract: 083800  
24 Tract: 084000  
25 Tract: 084601  
26 Tract: 084602  
27 Tract: 089201  
28 Tract: 089202  
29 Tract: 091602  
30 Tract: 091603  
31 Tract: 091604  
32 Tract: 091800  
33 Tract: 092200  
34 Tract: 092800  
35 Tract: 093401  
36 Tract: 093402  
37 Tract: 093800  
38 Tract: 094201  
39 Tract: 094202  
40 Tract: 094203  
41 Tract: 095400  
42 Tract: 096400  
43 Tract: 097202  
44 Tract: 097204  
45 Tract: 097205  
46 Tract: 097206  
47 Tract: 097207  
48 Tract: 099200  
49 Tract: 099801  
50 Tract: 099802  
51 Tract: 100801  
52 Tract: 100803  
53 Tract: 100804  
54 Tract: 101002  
55 Tract: 101003  
56 Tract: 101004



1 Tract: 103201  
 2 Tract: 103202  
 3 Tract: 107201  
 4 Tract: 107202  
 5 Tract: 127700  
 6 Tract: 990100  
 7 Within Nassau County  
 8 Within Hempstead town:  
 9 Tract: 404600 Block: 2012  
 10 Tract: 404800 Blocks: 1024 2010-2012 2019-2020 3000-3005 3007  
 11 3009-3021 4000-4031  
 12 Tract: 405200 Blocks: 1000-1017 2000-2018 3000-3017 4000-4002  
 13 4004-4014 4017-4023  
 14 Tract: 405400 Blocks: 3002-3004 3006-3012 3015  
 15 Tract: 409900 Blocks: 1000-1008 2000-2035 3000-3020 4000-4012  
 16 5000-5012 6000-6007  
 17 Tract: 410000 Blocks: 1009-1012 2000-2009  
 18 Tract: 410500 Blocks: 3004-3010 3021 3025-3026 4000-4018 5009  
 19 5012-5021 6000-6015  
 20 Tract: 410800 Blocks: 4003-4004 4010-4011  
 21 Tract: 410900 Blocks: 1000-1007 2000-2016  
 22 Tract: 411000 Blocks: 1001-1019 2000-2007 3000-3014 4000-4016  
 23 5000-5021  
 24 Tract: 411301 Blocks: 1010-1017 1022-1024  
 25 Tract: 411600 Blocks: 3017-3019 3021  
 26 Within Queens County  
 27 Within Queens Borough:  
 28 Tract: 006201 Block: 1010  
 29 Tract: 006202 Blocks: 6004 7000 7007-7009  
 30 Tract: 009400 Blocks: 1000 1006  
 31 Tract: 009600 Blocks: 1000-1005 2000-2003 2005-2008  
 32 Tract: 009800 Blocks: 1000-1005 2000-2002  
 33 Tract: 011000 Blocks: 2000-2001  
 34 Tract: 011800 Blocks: 1000-1002  
 35 Tract: 012400 Blocks: 1000-1005 2000 2003-2005  
 36 Tract: 013000 Blocks: 1003-1007 2000  
 37 Tract: 013400 Blocks: 4000-4002  
 38 Tract: 013800 Blocks: 2003-2007  
 39 Tract: 014000 Blocks: 1000-1010 2001-2003 2005-2007  
 40 Tract: 021400 Blocks: 1001 2000-2001 2007-2011 3000-3017  
 41 Tract: 023200 Block: 2002  
 42 Tract: 023600 Blocks: 1004 2000-2003  
 43 Tract: 023800 Blocks: 1001 2000-2003 3000-3001 4000-4003  
 44 Tract: 044800 Blocks: 1005-1006  
 45 Tract: 045400 Blocks: 1000-1005  
 46 Tract: 045600 Blocks: 1000-1001  
 47 Tract: 045800 Blocks: 1000 1009-1010  
 48 Tract: 055200 Blocks: 1001-1021 2000-2011  
 49 Tract: 055400 Blocks: 1000-1005 2003-2006  
 50 Tract: 056000 Blocks: 1006 1009-1011 2000-2008  
 51 Tract: 056200 Block: 1012  
 52 Tract: 056400 Blocks: 1002 1004-1012  
 53 Tract: 086400 Blocks: 1000-1005 2003 2005  
 54 Tract: 088400 Blocks: 0001-0003 1005 1007-1010 1012-1021 2000-2011  
 55 3000-3012 4000-4012 5000-5012 6000-6011 7000-7008 8000-8010  
 56 Tract: 124700 Block: 3010

1 Tract: 126700 Blocks: 1000-1002 1004 1008-1009  
2 6. Congressional District 6.  
3 Within Queens County  
4 Within Queens Borough:  
5 Tract: 013600  
6 Tract: 021601  
7 Tract: 021603  
8 Tract: 022001  
9 Tract: 022002  
10 Tract: 023000  
11 Tract: 024700  
12 Tract: 026502  
13 Tract: 026902  
14 Tract: 045000  
15 Tract: 045200  
16 Tract: 045700  
17 Tract: 045900  
18 Tract: 047100  
19 Tract: 047300  
20 Tract: 047500  
21 Tract: 047900  
22 Tract: 048100  
23 Tract: 048301  
24 Tract: 048302  
25 Tract: 048500  
26 Tract: 048900  
27 Tract: 049301  
28 Tract: 049302  
29 Tract: 049500  
30 Tract: 049700  
31 Tract: 049900  
32 Tract: 050500  
33 Tract: 050700  
34 Tract: 051100  
35 Tract: 051300  
36 Tract: 051500  
37 Tract: 051700  
38 Tract: 052100  
39 Tract: 052500  
40 Tract: 053100  
41 Tract: 057900  
42 Tract: 058100  
43 Tract: 058700  
44 Tract: 059900  
45 Tract: 060100  
46 Tract: 060300  
47 Tract: 060701  
48 Tract: 061301  
49 Tract: 061302  
50 Tract: 061900  
51 Tract: 062100  
52 Tract: 062300  
53 Tract: 062500  
54 Tract: 062700  
55 Tract: 063301  
56 Tract: 063302



S. 8172--A

23

A. 9039--A

1 Tract: 063500  
2 Tract: 063700  
3 Tract: 063900  
4 Tract: 064101  
5 Tract: 064500  
6 Tract: 065501  
7 Tract: 065702  
8 Tract: 065703  
9 Tract: 065900  
10 Tract: 066100  
11 Tract: 066301  
12 Tract: 066302  
13 Tract: 066501  
14 Tract: 066701  
15 Tract: 066900  
16 Tract: 067100  
17 Tract: 067700  
18 Tract: 067900  
19 Tract: 068300  
20 Tract: 068700  
21 Tract: 069300  
22 Tract: 069500  
23 Tract: 069701  
24 Tract: 069702  
25 Tract: 070300  
26 Tract: 070700  
27 Tract: 070900  
28 Tract: 071100  
29 Tract: 071303  
30 Tract: 071304  
31 Tract: 071305  
32 Tract: 071306  
33 Tract: 071701  
34 Tract: 071702  
35 Tract: 071900  
36 Tract: 072100  
37 Tract: 072300  
38 Tract: 072900  
39 Tract: 073100  
40 Tract: 073700  
41 Tract: 073900  
42 Tract: 074100  
43 Tract: 074300  
44 Tract: 074500  
45 Tract: 074700  
46 Tract: 074900  
47 Tract: 075701  
48 Tract: 075702  
49 Tract: 076901  
50 Tract: 076902  
51 Tract: 077300  
52 Tract: 077500  
53 Tract: 077902  
54 Tract: 077903  
55 Tract: 077904  
56 Tract: 077905



- 1 Tract: 077906
- 2 Tract: 077907
- 3 Tract: 077908
- 4 Tract: 079300
- 5 Tract: 079701
- 6 Tract: 079702
- 7 Tract: 079900
- 8 Tract: 080301
- 9 Tract: 080302
- 10 Tract: 080900
- 11 Tract: 083700
- 12 Tract: 084500
- 13 Tract: 084901
- 14 Tract: 084902
- 15 Tract: 085300
- 16 Tract: 085500
- 17 Tract: 085700
- 18 Tract: 085900
- 19 Tract: 086100
- 20 Tract: 086300
- 21 Tract: 086500
- 22 Tract: 087100
- 23 Tract: 099701
- 24 Tract: 104700
- 25 Tract: 105900
- 26 Tract: 108500
- 27 Tract: 109700
- 28 Tract: 109900
- 29 Tract: 112300
- 30 Tract: 112900
- 31 Tract: 113300
- 32 Tract: 113900
- 33 Tract: 114100
- 34 Tract: 114700
- 35 Tract: 115100
- 36 Tract: 115500
- 37 Tract: 115700
- 38 Tract: 115900
- 39 Tract: 116100
- 40 Tract: 116301
- 41 Tract: 116302
- 42 Tract: 116700
- 43 Tract: 117100
- 44 Tract: 117500
- 45 Tract: 118100
- 46 Tract: 118500
- 47 Tract: 118700
- 48 Tract: 118900
- 49 Tract: 119100
- 50 Tract: 119300
- 51 Tract: 119500
- 52 Tract: 119900
- 53 Tract: 120100
- 54 Tract: 120300
- 55 Tract: 120500
- 56 Tract: 120701

1 Tract: 120702  
2 Tract: 121100  
3 Tract: 121500  
4 Tract: 122300  
5 Tract: 122702  
6 Tract: 122703  
7 Tract: 122704  
8 Tract: 124100  
9 Tract: 125700  
10 Tract: 126500  
11 Tract: 128300  
12 Tract: 129102  
13 Tract: 129103  
14 Tract: 129104  
15 Tract: 133300  
16 Tract: 133900  
17 Tract: 134100  
18 Tract: 134701  
19 Tract: 134702  
20 Tract: 136700  
21 Tract: 137700  
22 Tract: 138501  
23 Tract: 139900  
24 Tract: 140300  
25 Tract: 140901  
26 Tract: 140902  
27 Tract: 141700  
28 Tract: 142900  
29 Tract: 143500  
30 Tract: 144100  
31 Tract: 144700  
32 Tract: 145101  
33 Tract: 145102  
34 Tract: 145900  
35 Tract: 146300  
36 Tract: 146700  
37 Tract: 147100  
38 Tract: 012800 Block: 1000  
39 Tract: 013000 Blocks: 1000-1002  
40 Tract: 013400 Blocks: 1000-1001 2000-2006 3000-3003  
41 Tract: 013800 Blocks: 1000-1003 2000-2002  
42 Tract: 014000 Blocks: 2000 2004  
43 Tract: 021400 Blocks: 1000 2002-2006  
44 Tract: 023200 Blocks: 1000-1001 2000-2001 3000-3008  
45 Tract: 023600 Blocks: 1000-1003  
46 Tract: 023800 Block: 1000  
47 Tract: 024300 Blocks: 1000-1002 1014 3000-3004 3007-3011 4000-4013  
48 Tract: 024500 Blocks: 3000-3001 3005  
49 Tract: 024900 Blocks: 1000-1008 2000-2004 3000-3002 3004-3005  
50 Tract: 025900 Blocks: 2002-2003  
51 Tract: 026100 Blocks: 4004-4007  
52 Tract: 026300 Blocks: 2000-2006 3000-3002  
53 Tract: 026501 Blocks: 1000-1002 2004-2006  
54 Tract: 026700 Blocks: 2000-2005 3004-3007  
55 Tract: 027101 Blocks: 1002 2000 3000  
56 Tract: 038302 Blocks: 1021 1032 1034-1066 1068-1088 1090-1091



1 Tract: 043701 Block: 2004  
2 Tract: 043702 Block: 1000  
3 Tract: 044800 Blocks: 1000-1004 2000-2003  
4 Tract: 045400 Blocks: 2000-2007  
5 Tract: 045600 Blocks: 1002-1016  
6 Tract: 045800 Blocks: 1001-1008  
7 Tract: 046100 Blocks: 1001-1006 2004  
8 Tract: 046700 Blocks: 4001-4003  
9 Tract: 046901 Blocks: 1000-1001 2000-2001 3001  
10 Tract: 055200 Block: 1000  
11 Tract: 057700 Blocks: 1000-1003 2002-2004  
12 Tract: 058300 Blocks: 1000-1003 2000-2003  
13 Tract: 058500 Blocks: 1000-1003 2000-2004 3000 3002-3004  
14 Tract: 059300 Blocks: 1000-1005 2000-2005  
15 Tract: 059501 Block: 1000  
16 Tract: 059502 Blocks: 1000-1001 1006-1007  
17 Tract: 064102 Blocks: 1000-1011 1014-1018  
18 Tract: 086900 Blocks: 1000-1019 2001-2004 2008-2017  
19 Tract: 088902 Blocks: 1001-1003 2000-2004 3000-3003 4000-4002  
20 Tract: 088903 Blocks: 1000-1001 1004-1014 2000-2001 2004-2005  
21 3000-3002  
22 Tract: 099703 Blocks: 3005 3008-3009  
23 Tract: 099704 Blocks: 1002 3000-3004 5000-5001  
24 Tract: 099705 Blocks: 1007-1018  
25 Tract: 101700 Blocks: 1000-1002 1005-1010 2000-2009 3009-3011  
26 5000-5012  
27 Tract: 103300 Blocks: 2006-2007 3001-3009 4000-4008  
28 Tract: 109300 Blocks: 1000-1015 2001-2014 2016 3000-3013  
29 Tract: 111300 Blocks: 1002-1013 2000-2008 3000-3011  
30 Tract: 124700 Blocks: 1000-1013 2000-2011 3000-3009  
31 Tract: 126700 Blocks: 1003 1005-1007 2000-2005 3000-3007  
32 Tract: 130100 Block: 1010  
33 Tract: 138502 Blocks: 1004-1006 1016-1019 1022-1024 1026-1027  
34 7. Congressional District 7.  
35 Within Kings County  
36 Within Brooklyn Borough:  
37 Tract: 000100  
38 Tract: 000301  
39 Tract: 000501  
40 Tract: 000502  
41 Tract: 000700  
42 Tract: 001300  
43 Tract: 001501  
44 Tract: 002100  
45 Tract: 002300  
46 Tract: 002901  
47 Tract: 003101  
48 Tract: 004500  
49 Tract: 004700  
50 Tract: 004900  
51 Tract: 005100  
52 Tract: 005900  
53 Tract: 006300  
54 Tract: 006700  
55 Tract: 008500  
56 Tract: 018300

1 Tract: 018501  
2 Tract: 018700  
3 Tract: 019100  
4 Tract: 019500  
5 Tract: 021100  
6 Tract: 023500  
7 Tract: 025500  
8 Tract: 025700  
9 Tract: 028501  
10 Tract: 038900  
11 Tract: 039100  
12 Tract: 039300  
13 Tract: 039500  
14 Tract: 039700  
15 Tract: 039900  
16 Tract: 040100  
17 Tract: 040300  
18 Tract: 040500  
19 Tract: 040700  
20 Tract: 040900  
21 Tract: 041100  
22 Tract: 041300  
23 Tract: 041500  
24 Tract: 041700  
25 Tract: 041900  
26 Tract: 042100  
27 Tract: 042300  
28 Tract: 042500  
29 Tract: 042700  
30 Tract: 042900  
31 Tract: 043100  
32 Tract: 043300  
33 Tract: 043500  
34 Tract: 043700  
35 Tract: 043900  
36 Tract: 044100  
37 Tract: 044300  
38 Tract: 044500  
39 Tract: 044700  
40 Tract: 044901  
41 Tract: 044902  
42 Tract: 045300  
43 Tract: 047700  
44 Tract: 048100  
45 Tract: 048500  
46 Tract: 048900  
47 Tract: 049100  
48 Tract: 049301  
49 Tract: 049302  
50 Tract: 049500  
51 Tract: 049700  
52 Tract: 049900  
53 Tract: 050100  
54 Tract: 050300  
55 Tract: 050500  
56 Tract: 050700



1 Tract: 050900  
2 Tract: 051100  
3 Tract: 051300  
4 Tract: 051500  
5 Tract: 051900  
6 Tract: 052300  
7 Tract: 052500  
8 Tract: 052700  
9 Tract: 052900  
10 Tract: 053101  
11 Tract: 053102  
12 Tract: 053300  
13 Tract: 053500  
14 Tract: 053700  
15 Tract: 053900  
16 Tract: 054300  
17 Tract: 054500  
18 Tract: 054700  
19 Tract: 054900  
20 Tract: 055100  
21 Tract: 055300  
22 Tract: 055500  
23 Tract: 059300  
24 Tract: 114201  
25 Tract: 114202  
26 Tract: 114600  
27 Tract: 116800  
28 Tract: 117000  
29 Tract: 117201  
30 Tract: 117202  
31 Tract: 117400  
32 Tract: 117601  
33 Tract: 117602  
34 Tract: 117800  
35 Tract: 118000  
36 Tract: 118201  
37 Tract: 118202  
38 Tract: 118400  
39 Tract: 118600  
40 Tract: 118800  
41 Tract: 119000  
42 Tract: 119800  
43 Tract: 120200  
44 Tract: 123700  
45 Within New York County  
46 Within Manhattan Borough:  
47 Tract: 000201  
48 Tract: 000202  
49 Tract: 001001  
50 Tract: 001002  
51 Tract: 001200  
52 Tract: 001401  
53 Tract: 001402  
54 Tract: 002000  
55 Tract: 002201  
56 Tract: 002202



- 1 Tract: 002400
- 2 Tract: 002601
- 3 Tract: 002602
- 4 Tract: 002800
- 5 Tract: 003001
- 6 Tract: 003601
- 7 Within Queens County
- 8 Within Queens Borough:
- 9 Tract: 000200
- 10 Tract: 000400
- 11 Tract: 000600
- 12 Tract: 000800
- 13 Tract: 001000
- 14 Tract: 001200
- 15 Tract: 001400
- 16 Tract: 001600
- 17 Tract: 001800
- 18 Tract: 002000
- 19 Tract: 002200
- 20 Tract: 002400
- 21 Tract: 002600
- 22 Tract: 002800
- 23 Tract: 003000
- 24 Tract: 003200
- 25 Tract: 003400
- 26 Tract: 003600
- 27 Tract: 003800
- 28 Tract: 004001
- 29 Tract: 004002
- 30 Tract: 004200
- 31 Tract: 004401
- 32 Tract: 005000
- 33 Tract: 005200
- 34 Tract: 005400
- 35 Tract: 005800
- 36 Tract: 008600
- 37 Tract: 008800
- 38 Tract: 011200
- 39 Tract: 011400
- 40 Tract: 011600
- 41 Tract: 012601
- 42 Tract: 012602
- 43 Tract: 053501
- 44 Tract: 053502
- 45 Tract: 053901
- 46 Tract: 053902
- 47 Tract: 054500
- 48 Tract: 054700
- 49 Tract: 054900
- 50 Tract: 055100
- 51 Tract: 055300
- 52 Tract: 055500
- 53 Tract: 055700
- 54 Tract: 055900
- 55 Tract: 056100
- 56 Tract: 056500

1 Tract: 056700  
 2 Tract: 058900  
 3 Tract: 059100  
 4 Tract: 062900  
 5 Within Kings County  
 6 Within Brooklyn Borough:  
 7 Tract: 000900 Blocks: 1000-1003 1009 2001-2002  
 8 Tract: 001100 Blocks: 1000-1003 1007-1010  
 9 Tract: 001502 Blocks: 1000-1010 1013-1014 1017-1018  
 10 Tract: 003300 Blocks: 2000-2004 2008-2011  
 11 Tract: 003500 Blocks: 1001-1002  
 12 Tract: 005301 Blocks: 1000-1014 2004 2010-2013 2015  
 13 Tract: 005302 Blocks: 2000-2001 3000 3005  
 14 Tract: 006500 Blocks: 1000-1001 2000-2001 3001 4001 5001 6001-6002  
 15 7001  
 16 Tract: 019300 Blocks: 1000-1003 2000-2001 3000-3002  
 17 Tract: 024100 Blocks: 1000-1006  
 18 Tract: 025300 Blocks: 1000-1001 2000-2001 3000-3001  
 19 Tract: 025901 Blocks: 1001-1002  
 20 Tract: 026100 Blocks: 4000-4001 5000-5001  
 21 Tract: 051700 Blocks: 1001-1004 2001-2004  
 22 Tract: 055700 Blocks: 1000-1002 2001-2003 2008-2013  
 23 Tract: 058901 Block: 2004  
 24 Tract: 058902 Blocks: 1000 1002  
 25 Tract: 059100 Blocks: 1000-1001 2000-2001 3000-3004 4002  
 26 Tract: 114400 Blocks: 1000 1002 1006  
 27 Tract: 119200 Blocks: 1000-1001 3000-3002  
 28 Tract: 119600 Blocks: 1000-1002 1009  
 29 Tract: 120803 Blocks: 1000-1001 1005-1011  
 30 Tract: 122000 Blocks: 1000-1007 1009  
 31 Within New York County  
 32 Within Manhattan Borough:  
 33 Tract: 000500 Blocks: 2000-2003 2007  
 34 Tract: 000600 Blocks: 0001-0002 2002 2004-2006 3000-3002 4000-4001  
 35 5000-5001 6000-6003  
 36 Tract: 000700 Block: 9000  
 37 Tract: 000800 Blocks: 0001-0002 6027-6029  
 38 Tract: 000900 Blocks: 0002 2000-2001  
 39 Tract: 001502 Block: 8000  
 40 Tract: 001800 Blocks: 1000 2000-2007 3000-3004 4000-4001 5000-5005  
 41 7000-7003  
 42 Tract: 003002 Blocks: 1000-1002 2002-2003 5000 6000-6001 7000-7002  
 43 Tract: 003400 Block: 1001  
 44 Tract: 003400 Blocks: 2000-2001  
 45 Tract: 004100 Blocks: 1000-1005 6000 6004-6005  
 46 Tract: 004300 Blocks: 1000 2000-2001 3006  
 47 Within Queens County  
 48 Within Queens Borough:  
 49 Tract: 006201 Blocks: 1000-1009 2000 3000-3001  
 50 Tract: 006202 Blocks: 1000-1009 2000-2006 3000-3005 4000-4004  
 51 5000-5005 6000-6003 7001-7006  
 52 Tract: 009400 Blocks: 1001-1005 2000-2004  
 53 Tract: 009600 Block: 2004  
 54 Tract: 009800 Blocks: 2003-2005  
 55 Tract: 011000 Blocks: 1000-1004 2002-2006  
 56 Tract: 011800 Blocks: 1003-1004 2000-2004

1 Tract: 012400 Blocks: 2001-2002 2006  
2 Tract: 012800 Blocks: 1001-1005 2000-2003  
3 Tract: 013000 Blocks: 2001-2005  
4 Tract: 021900 Block: 1017  
5 Tract: 057700 Blocks: 2000-2001 2005-2007 3000-3003  
6 Tract: 058300 Blocks: 3000-3003  
7 Tract: 058500 Blocks: 3001 3005-3006  
8 Tract: 059300 Blocks: 1006 2006-2008  
9 Tract: 059501 Blocks: 1001-1005 2000-2005  
10 Tract: 059502 Blocks: 1002-1005 1008-1009 2000-2011  
11 Tract: 064102 Blocks: 1012-1013 2000-2002 2004 2006  
12 Tract: 088400 Blocks: 1000-1004 1006 1011  
13 8. Congressional District 8.  
14 Within Kings County  
15 Within Brooklyn Borough:  
16 Tract: 003102  
17 Tract: 017900  
18 Tract: 018100  
19 Tract: 019700  
20 Tract: 019900  
21 Tract: 020100  
22 Tract: 022700  
23 Tract: 022900  
24 Tract: 023100  
25 Tract: 023300  
26 Tract: 024300  
27 Tract: 024500  
28 Tract: 024700  
29 Tract: 024900  
30 Tract: 025100  
31 Tract: 025902  
32 Tract: 026300  
33 Tract: 026500  
34 Tract: 026700  
35 Tract: 026900  
36 Tract: 027100  
37 Tract: 027300  
38 Tract: 027500  
39 Tract: 027700  
40 Tract: 027900  
41 Tract: 028100  
42 Tract: 028300  
43 Tract: 028502  
44 Tract: 028700  
45 Tract: 028900  
46 Tract: 029100  
47 Tract: 029300  
48 Tract: 029500  
49 Tract: 029700  
50 Tract: 029900  
51 Tract: 030100  
52 Tract: 030300  
53 Tract: 030700  
54 Tract: 030800  
55 Tract: 031402  
56 Tract: 032600



S. 8172--A

32

A. 9039--A

1 Tract: 032800  
2 Tract: 033000  
3 Tract: 033600  
4 Tract: 034000  
5 Tract: 034200  
6 Tract: 034800  
7 Tract: 035000  
8 Tract: 035200  
9 Tract: 035400  
10 Tract: 035601  
11 Tract: 035602  
12 Tract: 036001  
13 Tract: 036002  
14 Tract: 036200  
15 Tract: 036400  
16 Tract: 036501  
17 Tract: 036502  
18 Tract: 036600  
19 Tract: 036700  
20 Tract: 036900  
21 Tract: 037000  
22 Tract: 037100  
23 Tract: 037300  
24 Tract: 037401  
25 Tract: 037402  
26 Tract: 037500  
27 Tract: 037700  
28 Tract: 037900  
29 Tract: 038100  
30 Tract: 038200  
31 Tract: 038300  
32 Tract: 038500  
33 Tract: 038700  
34 Tract: 038800  
35 Tract: 039000  
36 Tract: 039200  
37 Tract: 039400  
38 Tract: 056600  
39 Tract: 056800  
40 Tract: 057000  
41 Tract: 057200  
42 Tract: 057400  
43 Tract: 057600  
44 Tract: 057800  
45 Tract: 058000  
46 Tract: 058200  
47 Tract: 058400  
48 Tract: 058600  
49 Tract: 058800  
50 Tract: 059000  
51 Tract: 059200  
52 Tract: 059402  
53 Tract: 059403  
54 Tract: 059404  
55 Tract: 059600  
56 Tract: 059800



S. 8172--A

33

A. 9039--A

1 Tract: 060000  
2 Tract: 060600  
3 Tract: 060800  
4 Tract: 061002  
5 Tract: 061003  
6 Tract: 061004  
7 Tract: 061200  
8 Tract: 061600  
9 Tract: 062000  
10 Tract: 062200  
11 Tract: 062600  
12 Tract: 062800  
13 Tract: 063200  
14 Tract: 065200  
15 Tract: 065400  
16 Tract: 065800  
17 Tract: 066000  
18 Tract: 066200  
19 Tract: 066600  
20 Tract: 067000  
21 Tract: 067200  
22 Tract: 067400  
23 Tract: 067600  
24 Tract: 067800  
25 Tract: 068000  
26 Tract: 068200  
27 Tract: 068600  
28 Tract: 068800  
29 Tract: 069000  
30 Tract: 069200  
31 Tract: 069601  
32 Tract: 069602  
33 Tract: 069800  
34 Tract: 070000  
35 Tract: 070201  
36 Tract: 070202  
37 Tract: 070203  
38 Tract: 070601  
39 Tract: 070602  
40 Tract: 072000  
41 Tract: 072800  
42 Tract: 073000  
43 Tract: 073600  
44 Tract: 090800  
45 Tract: 092200  
46 Tract: 094402  
47 Tract: 095400  
48 Tract: 095600  
49 Tract: 095800  
50 Tract: 096000  
51 Tract: 096200  
52 Tract: 096400  
53 Tract: 096600  
54 Tract: 096800  
55 Tract: 097000  
56 Tract: 097400



S. 8172--A

34

A. 9039--A

1 Tract: 098200  
2 Tract: 098400  
3 Tract: 098600  
4 Tract: 098800  
5 Tract: 099000  
6 Tract: 099200  
7 Tract: 099400  
8 Tract: 099600  
9 Tract: 099800  
10 Tract: 100400  
11 Tract: 100600  
12 Tract: 100800  
13 Tract: 101000  
14 Tract: 101200  
15 Tract: 101400  
16 Tract: 101600  
17 Tract: 101800  
18 Tract: 102000  
19 Tract: 102200  
20 Tract: 102400  
21 Tract: 102600  
22 Tract: 102801  
23 Tract: 102802  
24 Tract: 103401  
25 Tract: 103402  
26 Tract: 105801  
27 Tract: 105804  
28 Tract: 107001  
29 Tract: 107002  
30 Tract: 107003  
31 Tract: 107800  
32 Tract: 109800  
33 Tract: 110400  
34 Tract: 110600  
35 Tract: 111000  
36 Tract: 111600  
37 Tract: 111800  
38 Tract: 112000  
39 Tract: 112200  
40 Tract: 112400  
41 Tract: 112600  
42 Tract: 112800  
43 Tract: 113000  
44 Tract: 113200  
45 Tract: 113400  
46 Tract: 115000  
47 Tract: 115200  
48 Tract: 115600  
49 Tract: 115800  
50 Tract: 116000  
51 Tract: 116200  
52 Tract: 116400  
53 Tract: 116600  
54 Tract: 119400  
55 Tract: 120000  
56 Tract: 120801



1 Tract: 120802  
2 Tract: 121000  
3 Tract: 121400  
4 Tract: 003300 Blocks: 1000-1001  
5 Tract: 003500 Blocks: 1000 1003-1004 2000-2002  
6 Tract: 012902 Block: 2000  
7 Tract: 016100 Block: 2000  
8 Tract: 016300 Blocks: 1000 4000-4001  
9 Tract: 020300 Blocks: 1000-1003 2000-2001  
10 Tract: 022100 Blocks: 1000-1003 2000-2002  
11 Tract: 025300 Blocks: 3002-3003  
12 Tract: 025901 Blocks: 1000 1003  
13 Tract: 026100 Blocks: 1000-1001 2000-2002 3000-3001 4002  
14 Tract: 029400 Blocks: 1009-1010  
15 Tract: 030400 Blocks: 0001 1006-1009  
16 Tract: 030500 Blocks: 1000-1003 1006-1007  
17 Tract: 030900 Blocks: 1000-1007 2000  
18 Tract: 031100 Blocks: 1000-1003 3000-3003  
19 Tract: 031300 Blocks: 1000-1003 4000-4003  
20 Tract: 031401 Blocks: 0001 2001-2002 3000-3011 4000  
21 Tract: 031500 Blocks: 1000-1003 4000-4003  
22 Tract: 034700 Block: 1000  
23 Tract: 036300 Blocks: 1000-1003  
24 Tract: 038600 Blocks: 1000-1009 2000-2001 2004-2010  
25 Tract: 039600 Blocks: 1000-1003 2000 2002-2004  
26 Tract: 039800 Blocks: 1000 1009-1011  
27 Tract: 041401 Blocks: 2000-2001  
28 Tract: 041402 Blocks: 1004-1005 2003-2004  
29 Tract: 041600 Blocks: 1003-1004 2000-2002  
30 Tract: 055600 Blocks: 1002-1003 2001 3002-3004  
31 Tract: 055800 Blocks: 1001-1002 2003-2005  
32 Tract: 056000 Blocks: 1001-1003 2001  
33 Tract: 056200 Blocks: 1002-1003 2002-2003  
34 Tract: 063600 Blocks: 1004-1005  
35 Tract: 063800 Blocks: 2001-2003  
36 Tract: 064800 Blocks: 2000-2003  
37 Tract: 065000 Blocks: 1002-1003 2000-2007  
38 Tract: 065600 Blocks: 1000-1002 2000-2003  
39 Tract: 072200 Blocks: 1000-1008 2000-2004  
40 Tract: 072400 Blocks: 1000-1002 2000-2001 2006-2007  
41 Tract: 072600 Block: 1011  
42 Tract: 073200 Blocks: 1000-1001 1005 2000  
43 Tract: 090600 Blocks: 1000-1001 2000-2003 3000  
44 Tract: 091000 Blocks: 4000-4005  
45 Tract: 091600 Blocks: 3002-3003 4003  
46 Tract: 091800 Blocks: 2000 2007  
47 Tract: 092000 Blocks: 1001 2002-2003 3000-3001 3005-3011 4000-4002  
48 Tract: 092800 Blocks: 1001-1003 2002-2005 3000-3001  
49 Tract: 093000 Blocks: 1000-1002 2000-2006  
50 Tract: 093400 Blocks: 2002-2003 2005-2007  
51 Tract: 094401 Blocks: 2002-2005 2007 3002-3003 4000-4001  
52 Tract: 095000 Blocks: 1000-1006 2001-2004  
53 Tract: 114400 Blocks: 1001 1003-1005 1007-1020 2000-2005 3000-3005  
54 4000-4005  
55 Tract: 119200 Blocks: 1002-1003 2000-2004 3003-3005  
56 Tract: 119600 Blocks: 1003-1008 2000-2005 3000-3005 4000-4005

1 Tract: 120803 Blocks: 1002-1004 1012-1013  
2 Tract: 122000 Blocks: 1008 1010-1016 2000-2029  
3 Tract: 990100 Blocks: 0001-0004  
4 9. Congressional District 9.  
5 Within Kings County  
6 Within Brooklyn Borough:  
7 Tract: 021300  
8 Tract: 021500  
9 Tract: 021700  
10 Tract: 021900  
11 Tract: 027000  
12 Tract: 029800  
13 Tract: 030600  
14 Tract: 031701  
15 Tract: 031702  
16 Tract: 031900  
17 Tract: 032100  
18 Tract: 032300  
19 Tract: 032500  
20 Tract: 032700  
21 Tract: 032900  
22 Tract: 033100  
23 Tract: 033300  
24 Tract: 033500  
25 Tract: 033701  
26 Tract: 033702  
27 Tract: 033900  
28 Tract: 034100  
29 Tract: 034300  
30 Tract: 034500  
31 Tract: 034901  
32 Tract: 034902  
33 Tract: 035101  
34 Tract: 035102  
35 Tract: 035301  
36 Tract: 035302  
37 Tract: 035500  
38 Tract: 035701  
39 Tract: 035702  
40 Tract: 035900  
41 Tract: 036100  
42 Tract: 040000  
43 Tract: 040200  
44 Tract: 040400  
45 Tract: 040600  
46 Tract: 040800  
47 Tract: 041000  
48 Tract: 041200  
49 Tract: 041800  
50 Tract: 042000  
51 Tract: 042200  
52 Tract: 042400  
53 Tract: 042600  
54 Tract: 042800  
55 Tract: 043000  
56 Tract: 043200



- 1 Tract: 043400
- 2 Tract: 043600
- 3 Tract: 043800
- 4 Tract: 044000
- 5 Tract: 044200
- 6 Tract: 044400
- 7 Tract: 044600
- 8 Tract: 044800
- 9 Tract: 045000
- 10 Tract: 045200
- 11 Tract: 045400
- 12 Tract: 045600
- 13 Tract: 045800
- 14 Tract: 046000
- 15 Tract: 046201
- 16 Tract: 046202
- 17 Tract: 048000
- 18 Tract: 048200
- 19 Tract: 048400
- 20 Tract: 049000
- 21 Tract: 049200
- 22 Tract: 049400
- 23 Tract: 050600
- 24 Tract: 050801
- 25 Tract: 050803
- 26 Tract: 050804
- 27 Tract: 051001
- 28 Tract: 051002
- 29 Tract: 051200
- 30 Tract: 051400
- 31 Tract: 051601
- 32 Tract: 051602
- 33 Tract: 051800
- 34 Tract: 052000
- 35 Tract: 052600
- 36 Tract: 052800
- 37 Tract: 053000
- 38 Tract: 053200
- 39 Tract: 053400
- 40 Tract: 053800
- 41 Tract: 054200
- 42 Tract: 054400
- 43 Tract: 054600
- 44 Tract: 054800
- 45 Tract: 055000
- 46 Tract: 055200
- 47 Tract: 055400
- 48 Tract: 056400
- 49 Tract: 064000
- 50 Tract: 064200
- 51 Tract: 064400
- 52 Tract: 064600
- 53 Tract: 073400
- 54 Tract: 073800
- 55 Tract: 074000
- 56 Tract: 074200

1 Tract: 074400  
2 Tract: 074600  
3 Tract: 074800  
4 Tract: 075000  
5 Tract: 075200  
6 Tract: 075400  
7 Tract: 075600  
8 Tract: 075800  
9 Tract: 076000  
10 Tract: 076200  
11 Tract: 076400  
12 Tract: 076600  
13 Tract: 076800  
14 Tract: 077000  
15 Tract: 077200  
16 Tract: 077400  
17 Tract: 077600  
18 Tract: 078000  
19 Tract: 078200  
20 Tract: 078400  
21 Tract: 078601  
22 Tract: 078602  
23 Tract: 078801  
24 Tract: 078802  
25 Tract: 079001  
26 Tract: 079002  
27 Tract: 079201  
28 Tract: 079202  
29 Tract: 079400  
30 Tract: 079601  
31 Tract: 079602  
32 Tract: 079801  
33 Tract: 079802  
34 Tract: 080000  
35 Tract: 080200  
36 Tract: 080400  
37 Tract: 080600  
38 Tract: 080800  
39 Tract: 081000  
40 Tract: 081400  
41 Tract: 081600  
42 Tract: 081800  
43 Tract: 082000  
44 Tract: 082200  
45 Tract: 082400  
46 Tract: 082600  
47 Tract: 082800  
48 Tract: 083000  
49 Tract: 083200  
50 Tract: 083400  
51 Tract: 083600  
52 Tract: 083800  
53 Tract: 084000  
54 Tract: 084600  
55 Tract: 084800  
56 Tract: 085000



1 Tract: 085200  
2 Tract: 085400  
3 Tract: 085600  
4 Tract: 085800  
5 Tract: 086000  
6 Tract: 086200  
7 Tract: 086400  
8 Tract: 086600  
9 Tract: 086800  
10 Tract: 087000  
11 Tract: 087200  
12 Tract: 087401  
13 Tract: 087600  
14 Tract: 087800  
15 Tract: 088001  
16 Tract: 088002  
17 Tract: 088200  
18 Tract: 088400  
19 Tract: 088600  
20 Tract: 088800  
21 Tract: 089000  
22 Tract: 089200  
23 Tract: 089400  
24 Tract: 089600  
25 Tract: 089800  
26 Tract: 090000  
27 Tract: 090200  
28 Tract: 091200  
29 Tract: 092400  
30 Tract: 093200  
31 Tract: 093600  
32 Tract: 093800  
33 Tract: 094600  
34 Tract: 152200  
35 Tract: 017700 Block: 1013  
36 Tract: 020500 Blocks: 1000-1001 2000-2001 3000-3001  
37 Tract: 020700 Blocks: 1000-1001  
38 Tract: 022100 Blocks: 1004-1005 2000-2002 3000-3002  
39 Tract: 024600 Blocks: 1000-1002 2001-2002 3000-3002  
40 Tract: 025400 Blocks: 1000-1002 2000-2003 3003  
41 Tract: 025600 Blocks: 1000-1005 2003  
42 Tract: 025800 Blocks: 1000-1002 2000-2002  
43 Tract: 026600 Blocks: 1000-1002 2002  
44 Tract: 026800 Blocks: 1000-1001 2000-2003 4000-4001  
45 Tract: 027200 Blocks: 1000-1001 2000-2001 3000  
46 Tract: 029600 Block: 1000  
47 Tract: 030000 Blocks: 1001 2000-2001 3000-3001 4000-4001 5000-5001  
48 6000  
49 Tract: 030200 Blocks: 1002-1003 2000-2002 3000-3002  
50 Tract: 030400 Blocks: 1000-1005 1010 2001-2004 3000-3008  
51 Tract: 030500 Blocks: 1004-1005 1008 2000-2002 3000-3002 4000-4002  
52 Tract: 030900 Blocks: 2001-2002  
53 Tract: 031100 Blocks: 1004 2000-2002  
54 Tract: 031300 Blocks: 2000-2002 3000-3002  
55 Tract: 031401 Blocks: 1000-1005 2000 5000-5001 6000-6001  
56 Tract: 031500 Blocks: 2000-2001 3000-3001

1 Tract: 034700 Blocks: 1001-1002 2000-2001 3000-3001  
2 Tract: 036300 Blocks: 1004-1006 2000-2003 3000-3004 4000-4001  
3 Tract: 038600 Blocks: 2002-2003  
4 Tract: 039600 Block: 2001  
5 Tract: 039800 Blocks: 1001-1008 2000-2005  
6 Tract: 041401 Blocks: 1000-1003 2002  
7 Tract: 041402 Blocks: 1000-1003 2000-2002  
8 Tract: 041600 Blocks: 1000-1007  
9 Tract: 046800 Blocks: 1002-1005  
10 Tract: 048800 Blocks: 1000 1003 2000 3000-3001  
11 Tract: 049600 Blocks: 1000-1001  
12 Tract: 055600 Blocks: 1000-1001 2000 3000-3001  
13 Tract: 055800 Blocks: 1000 2000-2002  
14 Tract: 056000 Blocks: 1000 2000 3000-3001  
15 Tract: 056200 Blocks: 1000-1001 2000-2001  
16 Tract: 063600 Blocks: 1000-1003  
17 Tract: 063800 Blocks: 1000-1003 2000  
18 Tract: 064800 Blocks: 1000-1004  
19 Tract: 065000 Blocks: 1000-1001  
20 Tract: 065600 Block: 1003  
21 Tract: 072200 Block: 2005  
22 Tract: 072400 Blocks: 2002-2005  
23 Tract: 072600 Blocks: 1000-1010 1012-1018  
24 Tract: 073200 Blocks: 1002-1004 1006 2001-2005  
25 Tract: 090600 Block: 2004  
26 Tract: 091000 Blocks: 1000-1001 2000 3000  
27 Tract: 091600 Blocks: 1000-1002 2000-2003 3000-3001 4000-4002  
28 Tract: 091800 Blocks: 1000-1005 2001-2006  
29 Tract: 092000 Blocks: 1000 2000-2001 3002-3004  
30 Tract: 092800 Blocks: 1000 2000-2001  
31 Tract: 093000 Block: 1003  
32 Tract: 093400 Blocks: 1000-1004 2000-2001 2004  
33 Tract: 094401 Blocks: 1000-1001 2000-2001 2006 3000-3001  
34 Tract: 095000 Block: 2000  
35 10. Congressional District 10.  
36 Within Kings County  
37 Within Brooklyn Borough:  
38 Tract: 003700  
39 Tract: 005303  
40 Tract: 009402  
41 Tract: 010401  
42 Tract: 010402  
43 Tract: 010601  
44 Tract: 010602  
45 Tract: 010801  
46 Tract: 010802  
47 Tract: 011400  
48 Tract: 011600  
49 Tract: 011800  
50 Tract: 012801  
51 Tract: 013200  
52 Tract: 017100  
53 Tract: 017400  
54 Tract: 017600  
55 Tract: 017800  
56 Tract: 018000

- 1 Tract: 018200
- 2 Tract: 018400
- 3 Tract: 018600
- 4 Tract: 018800
- 5 Tract: 019000
- 6 Tract: 019200
- 7 Tract: 019400
- 8 Tract: 019600
- 9 Tract: 019800
- 10 Tract: 020000
- 11 Tract: 020200
- 12 Tract: 020400
- 13 Tract: 020600
- 14 Tract: 020800
- 15 Tract: 021000
- 16 Tract: 021200
- 17 Tract: 021400
- 18 Tract: 021600
- 19 Tract: 021800
- 20 Tract: 022000
- 21 Tract: 022200
- 22 Tract: 022400
- 23 Tract: 022600
- 24 Tract: 022800
- 25 Tract: 023000
- 26 Tract: 023200
- 27 Tract: 023400
- 28 Tract: 023600
- 29 Tract: 023800
- 30 Tract: 024000
- 31 Tract: 024200
- 32 Tract: 024400
- 33 Tract: 024800
- 34 Tract: 025000
- 35 Tract: 025200
- 36 Tract: 026000
- 37 Tract: 026200
- 38 Tract: 026400
- 39 Tract: 027400
- 40 Tract: 027600
- 41 Tract: 027800
- 42 Tract: 028400
- 43 Tract: 028800
- 44 Tract: 029000
- 45 Tract: 047000
- 46 Tract: 047200
- 47 Tract: 047400
- 48 Tract: 047600
- 49 Tract: 047800
- 50 Tract: 048600
- 51 Tract: 049800
- 52 Tract: 050001
- 53 Tract: 050002
- 54 Tract: 050202
- 55 Tract: 050401
- 56 Tract: 050402

1 Within New York County  
2 Within Manhattan Borough:  
3 Tract: 000100  
4 Tract: 001300  
5 Tract: 001501  
6 Tract: 001600  
7 Tract: 002100  
8 Tract: 002500  
9 Tract: 002700  
10 Tract: 002901  
11 Tract: 002902  
12 Tract: 003900  
13 Tract: 006900  
14 Tract: 007500  
15 Tract: 007900  
16 Tract: 009901  
17 Tract: 009902  
18 Tract: 009903  
19 Tract: 011700  
20 Tract: 012102  
21 Tract: 012901  
22 Tract: 012902  
23 Tract: 013501  
24 Tract: 013502  
25 Tract: 014700  
26 Tract: 015101  
27 Tract: 015102  
28 Tract: 015302  
29 Tract: 015501  
30 Tract: 015502  
31 Tract: 015900  
32 Tract: 016300  
33 Tract: 016700  
34 Tract: 017100  
35 Tract: 017300  
36 Tract: 017500  
37 Tract: 017700  
38 Tract: 017900  
39 Tract: 018100  
40 Tract: 018300  
41 Tract: 018500  
42 Tract: 018700  
43 Tract: 019100  
44 Tract: 019500  
45 Tract: 019900  
46 Tract: 020101  
47 Tract: 020300  
48 Tract: 020500  
49 Tract: 020701  
50 Tract: 031703  
51 Tract: 031704  
52 Tract: 031900  
53 Within Kings County  
54 Within Brooklyn Borough:  
55 Tract: 000900 Blocks: 1004-1008 2000 2003-2004  
56 Tract: 001100 Blocks: 1004-1006 1011



1 Tract: 005102 Blocks: 1011-1012 1015-1016  
2 Tract: 001801 Blocks: 0001-0002  
3 Tract: 001802 Block: 0001  
4 Tract: 003300 Blocks: 2005-2007  
5 Tract: 003900 Blocks: 1000-1003 2000 3000  
6 Tract: 004300 Blocks: 1000 2001 4000-4005  
7 Tract: 005301 Blocks: 0002 2000-2003 2005-2009 2014 2016-2018  
8 Tract: 005302 Blocks: 0002 0004 1000-1013 2002-2013 3001-3004  
9 Tract: 006500 Blocks: 3000 4000 5000 6000 6003 7000 7002-7006  
10 Tract: 006901 Blocks: 2000-2001  
11 Tract: 006902 Blocks: 2000-2002  
12 Tract: 007500 Blocks: 1003 2004 5000-5002  
13 Tract: 007700 Blocks: 3002-3006 3009-3012 4000-4003  
14 Tract: 009002 Block: 1001  
15 Tract: 009202 Blocks: 2000-2001  
16 Tract: 009401 Blocks: 1001 2000-2001  
17 Tract: 009800 Blocks: 3000-3001  
18 Tract: 010000 Blocks: 1000-1001 2000-2001  
19 Tract: 010200 Blocks: 1000-1002 2002  
20 Tract: 011000 Blocks: 1000-1002 1005-1007 2000-2001  
21 Tract: 011200 Blocks: 1001-1006 2000-2001 3000-3001 4001  
22 Tract: 012000 Blocks: 1000-1005 1007-1012  
23 Tract: 012901 Blocks: 1000-1001 2000-2001 4000-4001  
24 Tract: 012902 Blocks: 2001-2006  
25 Tract: 014000 Blocks: 1000-1001  
26 Tract: 014800 Block: 1000  
27 Tract: 015900 Blocks: 5000-5002 5004 6000  
28 Tract: 016100 Blocks: 1000-1003 3000-3001 4000-4001  
29 Tract: 016300 Blocks: 2000-2002 3000-3001 4000  
30 Tract: 016600 Blocks: 1000-1001 2000-2002  
31 Tract: 016800 Blocks: 0001 1002-1005 1007-1009  
32 Tract: 016900 Blocks: 1000-1001  
33 Tract: 017000 Blocks: 1000-1002 2000-2001 3000  
34 Tract: 017200 Blocks: 1000-1007 2000-2002 2004-2005  
35 Tract: 017500 Block: 1001  
36 Tract: 017700 Blocks: 1000-1012 1014  
37 Tract: 020300 Blocks: 1004-1005 2002  
38 Tract: 020500 Blocks: 1002 2002 3002  
39 Tract: 020700 Blocks: 2000-2002 3000-3001  
40 Tract: 024600 Block: 2000  
41 Tract: 025400 Blocks: 3000-3002  
42 Tract: 025600 Blocks: 2000-2002  
43 Tract: 025800 Blocks: 3000-3002  
44 Tract: 026600 Blocks: 2000-2001 3000-3002  
45 Tract: 026800 Blocks: 3000-3003  
46 Tract: 027200 Blocks: 3001-3002  
47 Tract: 028000 Blocks: 1000-1004 2000-2005  
48 Tract: 028200 Blocks: 1000-1005 2000-2003 3000-3001  
49 Tract: 028600 Blocks: 0002 1000-1003 2000 3000 4000-4002 5000-5002  
50 Tract: 029200 Blocks: 1000-1002 2000-2003 3000-3003  
51 Tract: 029400 Blocks: 1000-1008  
52 Tract: 029600 Blocks: 1001-1002 2000-2002 3000-3002 4000-4001  
53 Tract: 030000 Block: 1000  
54 Tract: 030200 Blocks: 1000-1001 2000  
55 Tract: 030400 Block: 2000  
56 Tract: 046400 Blocks: 1000-1002 2000-2002

1 Tract: 046800 Blocks: 1000-1001  
2 Tract: 048800 Blocks: 1001-1002 2001  
3 Tract: 049600 Blocks: 1002-1004 2000-2002 3000-3004  
4 Tract: 150200 Blocks: 1000-1004 2000-2006 3009-3012  
5 Within New York County  
6 Within Manhattan Borough:  
7 Tract: 000500 Blocks: 0001-0004 1000-1031 2004-2006  
8 Tract: 000600 Blocks: 1000-1002 2000-2001 2003  
9 Tract: 000700 Blocks: 0001 1000-1005 2000 3000 4000-4004 5000-5001  
10 6000-6002 7000-7008 8000-8002  
11 Tract: 000800 Blocks: 1000-1001 2000 3000 4000 5000-5003 6000-6026  
12 Tract: 000900 Blocks: 0001 1000-1023  
13 Tract: 001502 Blocks: 0001 1000-1004 2000-2007 3000-3003 4000-4006  
14 5000 6000-6001 7000-7002  
15 Tract: 001800 Blocks: 1001-1004 5006 6000-6001  
16 Tract: 003100 Blocks: 1001-1003 1011-1012 2000-2010  
17 Tract: 003300 Blocks: 1007 1011-1012 2000-2003 2010 2013-2019  
18 3002-3004  
19 Tract: 003700 Blocks: 0001-0004 1000-1018 3009-3010 3014-3015  
20 Tract: 004100 Blocks: 2000-2002 3000-3002 4000-4002 5000 5002-5005  
21 Tract: 004500 Blocks: 1007 1009-1011  
22 Tract: 004700 Block: 2010  
23 Tract: 008300 Blocks: 3000-3003  
24 Tract: 008900 Blocks: 3000-3001 4000-4001  
25 Tract: 009300 Blocks: 3000 4000 5000-5001 6000-6001 7000  
26 Tract: 009700 Blocks: 2000-2002  
27 Tract: 010300 Blocks: 1000-1011  
28 Tract: 011100 Blocks: 2000-2008 3000-3007  
29 Tract: 011500 Blocks: 2000-2008  
30 Tract: 012700 Blocks: 3000-3001 4000-4002  
31 Tract: 013300 Blocks: 3000-3001 4000-4001  
32 Tract: 013900 Blocks: 1000 2000 3000-3001  
33 Tract: 014300 Blocks: 1005-1007 1012-1014  
34 Tract: 014500 Blocks: 1000-1002 2000  
35 Tract: 014900 Blocks: 1000-1003  
36 Tract: 015700 Blocks: 5000 6000 7000-7001 8000-8001  
37 Tract: 016100 Blocks: 1000-1002 5000 6000  
38 Tract: 016500 Blocks: 2000 3000 4000 5000  
39 Tract: 016900 Blocks: 1000 3000-3001 4000-4001  
40 Tract: 019701 Blocks: 1001-1002  
41 11. Congressional District 11.  
42 All of Richmond County  
43 Within Kings County  
44 Within Brooklyn Borough:  
45 Tract: 000200  
46 Tract: 001803  
47 Tract: 001804  
48 Tract: 002000  
49 Tract: 002200  
50 Tract: 003000  
51 Tract: 003400  
52 Tract: 003600  
53 Tract: 003800  
54 Tract: 004100  
55 Tract: 004400  
56 Tract: 004600

S. 8172--A

45

A. 9039--A

1 Tract: 005000  
2 Tract: 005201  
3 Tract: 005202  
4 Tract: 005400  
5 Tract: 005601  
6 Tract: 005602  
7 Tract: 005800  
8 Tract: 006000  
9 Tract: 006200  
10 Tract: 006400  
11 Tract: 006600  
12 Tract: 006800  
13 Tract: 007000  
14 Tract: 007100  
15 Tract: 007200  
16 Tract: 007400  
17 Tract: 007600  
18 Tract: 007800  
19 Tract: 008000  
20 Tract: 008200  
21 Tract: 008400  
22 Tract: 008600  
23 Tract: 008800  
24 Tract: 009001  
25 Tract: 009201  
26 Tract: 009600  
27 Tract: 010100  
28 Tract: 011700  
29 Tract: 011901  
30 Tract: 011902  
31 Tract: 012100  
32 Tract: 012200  
33 Tract: 012600  
34 Tract: 012700  
35 Tract: 013000  
36 Tract: 013100  
37 Tract: 013300  
38 Tract: 013400  
39 Tract: 013500  
40 Tract: 013600  
41 Tract: 013700  
42 Tract: 013800  
43 Tract: 013900  
44 Tract: 014101  
45 Tract: 014102  
46 Tract: 014200  
47 Tract: 014300  
48 Tract: 014500  
49 Tract: 014700  
50 Tract: 014901  
51 Tract: 014902  
52 Tract: 015000  
53 Tract: 015100  
54 Tract: 015200  
55 Tract: 015300  
56 Tract: 015400



1 Tract: 015500  
2 Tract: 015700  
3 Tract: 016000  
4 Tract: 016200  
5 Tract: 016400  
6 Tract: 016500  
7 Tract: 016700  
8 Tract: 001801 Blocks: 1000-1010 2000-2003  
9 Tract: 001802 Blocks: 1000-1011  
10 Tract: 003900 Blocks: 2001-2002 3001-3002  
11 Tract: 004300 Blocks: 2000 2002 3000-3003  
12 Tract: 005301 Block: 0001  
13 Tract: 005302 Blocks: 0001 0003  
14 Tract: 006901 Blocks: 1000-1001  
15 Tract: 006902 Blocks: 1000-1003  
16 Tract: 007500 Blocks: 1000-1002 2000-2003 3000-3006 4000-4001  
17 Tract: 007700 Blocks: 1000-1004 2000-2005 3000-3001 3007-3008 3013  
18 Tract: 009002 Blocks: 1000 1002-1003  
19 Tract: 009202 Blocks: 1000-1001  
20 Tract: 009401 Block: 1000  
21 Tract: 009800 Blocks: 1000-1001 2000-2001 4000-4001  
22 Tract: 010000 Blocks: 3000-3001 4000-4001  
23 Tract: 010200 Blocks: 2000-2001 3000-3001  
24 Tract: 011000 Blocks: 1003-1004 2002-2003  
25 Tract: 011200 Blocks: 1000 4000  
26 Tract: 012000 Block: 1006  
27 Tract: 012901 Blocks: 3000-3002  
28 Tract: 012902 Blocks: 1000-1001  
29 Tract: 014000 Blocks: 1002-1003 2000-2007  
30 Tract: 014800 Blocks: 1001-1002 2000-2003  
31 Tract: 015900 Blocks: 1000-1002 2000-2002 3000-3001 4000-4001 5003  
32 6001-6004  
33 Tract: 016100 Blocks: 4002-4004  
34 Tract: 016600 Blocks: 1002-1006 2003-2006  
35 Tract: 016800 Blocks: 1000-1001 1006  
36 Tract: 016900 Blocks: 2000-2001 3000-3003 4000-4001 5000-5001  
37 Tract: 017000 Blocks: 2002-2003 3001-3003  
38 Tract: 017200 Block: 2003  
39 Tract: 017500 Block: 1000  
40 Tract: 028000 Block: 0001  
41 Tract: 028200 Block: 0001  
42 Tract: 028600 Block: 0001  
43 Tract: 029200 Block: 1000  
44 Tract: 029400 Block: 1000  
45 Tract: 030400 Block: 0002  
46 Tract: 150200 Blocks: 3000-3008  
47 Tract: 990100 Blocks: 0005-0008  
48 12. Congressional District 12.  
49 Within Kings County  
50 Within Brooklyn Borough:  
51 Tract: 056100  
52 Tract: 056301  
53 Tract: 056302  
54 Tract: 056500  
55 Tract: 056900  
56 Tract: 057100

1 Tract: 057300  
2 Tract: 057500  
3 Tract: 057901  
4 Tract: 057902  
5 Within New York County  
6 Within Manhattan Borough:  
7 Tract: 003602  
8 Tract: 003800  
9 Tract: 004001  
10 Tract: 004002  
11 Tract: 004200  
12 Tract: 004400  
13 Tract: 004800  
14 Tract: 004900  
15 Tract: 005000  
16 Tract: 005200  
17 Tract: 005400  
18 Tract: 005501  
19 Tract: 005502  
20 Tract: 005600  
21 Tract: 005700  
22 Tract: 005800  
23 Tract: 005900  
24 Tract: 006000  
25 Tract: 006100  
26 Tract: 006200  
27 Tract: 006300  
28 Tract: 006400  
29 Tract: 006500  
30 Tract: 006600  
31 Tract: 006700  
32 Tract: 006800  
33 Tract: 007001  
34 Tract: 007002  
35 Tract: 007100  
36 Tract: 007200  
37 Tract: 007300  
38 Tract: 007400  
39 Tract: 007600  
40 Tract: 007700  
41 Tract: 007800  
42 Tract: 008000  
43 Tract: 008100  
44 Tract: 008200  
45 Tract: 008400  
46 Tract: 008601  
47 Tract: 008602  
48 Tract: 008603  
49 Tract: 008700  
50 Tract: 008800  
51 Tract: 009000  
52 Tract: 009100  
53 Tract: 009200  
54 Tract: 009400  
55 Tract: 009500  
56 Tract: 009600



1 Tract: 009800  
2 Tract: 010000  
3 Tract: 010100  
4 Tract: 010200  
5 Tract: 010400  
6 Tract: 010601  
7 Tract: 010602  
8 Tract: 010801  
9 Tract: 010802  
10 Tract: 010803  
11 Tract: 010900  
12 Tract: 011000  
13 Tract: 011201  
14 Tract: 011202  
15 Tract: 011203  
16 Tract: 011300  
17 Tract: 011401  
18 Tract: 011402  
19 Tract: 011600  
20 Tract: 011800  
21 Tract: 011900  
22 Tract: 012000  
23 Tract: 012101  
24 Tract: 012200  
25 Tract: 012400  
26 Tract: 012500  
27 Tract: 012601  
28 Tract: 012602  
29 Tract: 012800  
30 Tract: 013000  
31 Tract: 013100  
32 Tract: 013201  
33 Tract: 013202  
34 Tract: 013203  
35 Tract: 013400  
36 Tract: 013601  
37 Tract: 013602  
38 Tract: 013603  
39 Tract: 013604  
40 Tract: 013700  
41 Tract: 013800  
42 Tract: 014000  
43 Tract: 014200  
44 Tract: 014401  
45 Tract: 014402  
46 Tract: 014601  
47 Tract: 014602  
48 Tract: 014801  
49 Tract: 014802  
50 Tract: 015001  
51 Tract: 015002  
52 Tract: 015200  
53 Tract: 015301  
54 Tract: 015401  
55 Tract: 015402  
56 Tract: 015403



1 Tract: 015601  
2 Tract: 015602  
3 Tract: 015801  
4 Tract: 015802  
5 Tract: 016001  
6 Tract: 016002  
7 Tract: 023802  
8 Tract: 023803  
9 Tract: 023804  
10 Tract: 024000  
11 Within Queens County  
12 Within Queens Borough:  
13 Tract: 000101  
14 Tract: 000102  
15 Tract: 000103  
16 Tract: 000701  
17 Tract: 000702  
18 Tract: 001901  
19 Tract: 001903  
20 Tract: 002500  
21 Tract: 003302  
22 Tract: 003700  
23 Tract: 003900  
24 Tract: 004300  
25 Tract: 004500  
26 Tract: 004700  
27 Tract: 007500  
28 Tract: 007700  
29 Tract: 008500  
30 Tract: 008700  
31 Within Kings County  
32 Within Brooklyn Borough:  
33 Tract: 051700 Blocks: 1000 2000  
34 Tract: 055700 Blocks: 2000 2004-2007  
35 Tract: 058901 Blocks: 1000-1003 2000-2003  
36 Tract: 058902 Block: 1001  
37 Tract: 059100 Blocks: 4000-4001  
38 Within New York County  
39 Within Manhattan Borough:  
40 Tract: 003002 Blocks: 2000-2001  
41 Tract: 003100 Blocks: 1000 1004-1010  
42 Tract: 003200 Blocks: 1000-1001 2000 3000-3001 4000  
43 Tract: 003300 Blocks: 1000-1006 1008-1010 2004-2009 2011-2012  
44 3000-3001 4000-4005  
45 Tract: 003400 Blocks: 1000 3000-3002 4000-4001  
46 Tract: 003700 Blocks: 2000-2006 3000-3008 3011-3013 3016-3017  
47 Tract: 004100 Blocks: 5001 6001-6003  
48 Tract: 004300 Blocks: 1001-1004 3000-3005  
49 Tract: 004500 Blocks: 1000-1006 1008  
50 Tract: 004700 Blocks: 1000-1003 2000-2009 2011-2014  
51 Tract: 008300 Blocks: 1000-1001 2000-2002  
52 Tract: 008900 Blocks: 1000 2000-2001 5000  
53 Tract: 009300 Blocks: 1000-1002 2000-2001  
54 Tract: 009700 Blocks: 1000-1002 3000 4000  
55 Tract: 010300 Blocks: 1012 2000-2002  
56 Tract: 011100 Blocks: 1000-1004

1 Tract: 011500 Blocks: 1000-1003  
2 Tract: 012700 Blocks: 1000-1001 2000-2001 5000  
3 Tract: 013300 Blocks: 1000 2000-2001 5000-5001  
4 Tract: 013900 Blocks: 4000-4002 5000 6000 7000  
5 Tract: 014300 Blocks: 1010-1011 1015-1033  
6 Tract: 014500 Blocks: 3000-3002 4000-4002 5000-5001  
7 Tract: 014900 Blocks: 1004 2000 3000 4000-4001 5000  
8 Tract: 015700 Blocks: 1000 2000-2001 3000 4000  
9 Tract: 016100 Blocks: 2000-2001 3000 4000  
10 Tract: 016200 Blocks: 0001-0003 5002-5008  
11 Tract: 016400 Blocks: 2000-2002 3000-3002  
12 Tract: 016500 Blocks: 1000-1001  
13 Tract: 016600 Blocks: 3000-3001 6000-6003  
14 Tract: 016900 Blocks: 2000 5000 6000  
15 Tract: 017800 Block: 0001  
16 Tract: 019200 Blocks: 0001-0003  
17 Within Queens County  
18 Within Queens Borough:  
19 Tract: 000104 Blocks: 1000-1030 1032-1037  
20 Tract: 001902 Blocks: 1000-1015  
21 Tract: 003100 Blocks: 1000-1004 2000 2006-2008  
22 Tract: 003301 Blocks: 1000-1002 1004-1014  
23 Tract: 005100 Blocks: 1000-1002 2000-2005  
24 Tract: 005300 Blocks: 1000-1002 2000-2002 3000-3001 4000-4002  
25 Tract: 005700 Block: 2000  
26 Tract: 005900 Block: 3000  
27 Tract: 006100 Block: 1000  
28 Tract: 008100 Blocks: 1002 1007-1008  
29 Tract: 009100 Blocks: 1001-1002  
30 Tract: 017101 Blocks: 1014-1015  
31 Tract: 017902 Blocks: 1010-1011 1026  
32 13. Congressional District 13.  
33 Within Bronx County  
34 Within Bronx Borough:  
35 Tract: 022901  
36 Tract: 022902  
37 Tract: 023100  
38 Tract: 023302  
39 Tract: 023501  
40 Tract: 023502  
41 Tract: 023702  
42 Tract: 023703  
43 Tract: 023704  
44 Tract: 023900  
45 Tract: 024100  
46 Tract: 024501  
47 Tract: 024502  
48 Tract: 024900  
49 Tract: 025100  
50 Tract: 025300  
51 Tract: 025500  
52 Tract: 026100  
53 Tract: 026300  
54 Tract: 026500  
55 Tract: 026701  
56 Tract: 026702

- 1 Tract: 026900
- 2 Tract: 027300
- 3 Tract: 027700
- 4 Tract: 027900
- 5 Tract: 037900
- 6 Tract: 038100
- 7 Tract: 038301
- 8 Tract: 038303
- 9 Tract: 038304
- 10 Tract: 039901
- 11 Tract: 039902
- 12 Tract: 040100
- 13 Tract: 040302
- 14 Tract: 040303
- 15 Tract: 040304
- 16 Tract: 040501
- 17 Tract: 040701
- 18 Within New York County
- 19 Within Manhattan Borough:
- 20 Tract: 016800
- 21 Tract: 017000
- 22 Tract: 017200
- 23 Tract: 017401
- 24 Tract: 017402
- 25 Tract: 018000
- 26 Tract: 018200
- 27 Tract: 018400
- 28 Tract: 018600
- 29 Tract: 018800
- 30 Tract: 018900
- 31 Tract: 019000
- 32 Tract: 019300
- 33 Tract: 019400
- 34 Tract: 019600
- 35 Tract: 019702
- 36 Tract: 019800
- 37 Tract: 020000
- 38 Tract: 020102
- 39 Tract: 020600
- 40 Tract: 020800
- 41 Tract: 020901
- 42 Tract: 021000
- 43 Tract: 021100
- 44 Tract: 021200
- 45 Tract: 021303
- 46 Tract: 021400
- 47 Tract: 021500
- 48 Tract: 021600
- 49 Tract: 021703
- 50 Tract: 021800
- 51 Tract: 021900
- 52 Tract: 022000
- 53 Tract: 022102
- 54 Tract: 022200
- 55 Tract: 022301
- 56 Tract: 022302

1 Tract: 022400  
2 Tract: 022500  
3 Tract: 022600  
4 Tract: 022700  
5 Tract: 022800  
6 Tract: 022900  
7 Tract: 023000  
8 Tract: 023100  
9 Tract: 023200  
10 Tract: 023300  
11 Tract: 023400  
12 Tract: 023501  
13 Tract: 023502  
14 Tract: 023600  
15 Tract: 023700  
16 Tract: 023900  
17 Tract: 024100  
18 Tract: 024200  
19 Tract: 024301  
20 Tract: 024302  
21 Tract: 024500  
22 Tract: 024700  
23 Tract: 024900  
24 Tract: 025100  
25 Tract: 025300  
26 Tract: 025500  
27 Tract: 025700  
28 Tract: 025900  
29 Tract: 026100  
30 Tract: 026300  
31 Tract: 026500  
32 Tract: 026700  
33 Tract: 026900  
34 Tract: 027100  
35 Tract: 027300  
36 Tract: 027500  
37 Tract: 027700  
38 Tract: 027900  
39 Tract: 028100  
40 Tract: 028300  
41 Tract: 028500  
42 Tract: 028700  
43 Tract: 029100  
44 Tract: 029300  
45 Tract: 029500  
46 Tract: 029700  
47 Tract: 029900  
48 Tract: 030300  
49 Tract: 030700  
50 Tract: 030900  
51 Tract: 031100  
52 Within Bronx County  
53 Within Bronx Borough:  
54 Tract: 016500 Blocks: 1001-1006 1010-1015 1019  
55 Tract: 016700 Blocks: 2000-2002 2004-2005  
56 Tract: 016900 Blocks: 1000-1001



1 Tract: 017100 Block: 1001  
2 Tract: 021501 Blocks: 1000 2000  
3 Tract: 022701 Blocks: 2000-2004 3000 3006-3008  
4 Tract: 022702 Block: 1000  
5 Tract: 022703 Blocks: 1000 1006  
6 Tract: 023301 Blocks: 1001-1002 2000-2003 4000-4001  
7 Tract: 024300 Blocks: 1000-1001 2000 3000 4000  
8 Tract: 024700 Block: 1000  
9 Tract: 025700 Blocks: 1000-1005  
10 Tract: 028100 Blocks: 1000-1001 2000-2001 3001-3002  
11 Tract: 028300 Blocks: 1000-1005 2000 2002-2009  
12 Tract: 028500 Blocks: 4000-4001 4004-4008  
13 Tract: 028700 Blocks: 1001-1004 2000 3000-3001  
14 Tract: 028900 Blocks: 1000-1005 2000 3001-3004 3006 4000-4001  
15 Tract: 037504 Blocks: 1000-1007 2001-2002 3000-3001 3004-3005  
16 Tract: 038500 Blocks: 1000-1009 2000-2002 3001-3006 4000-4006  
17 Tract: 039500 Blocks: 1000-1005 2000-2004 3000-3006 4001-4012  
18 Tract: 040502 Blocks: 1000 2000 5000 6000-6001  
19 Tract: 040702 Blocks: 2000 3000-3003 4000-4002 5000  
20 Tract: 040900 Blocks: 1005-1007 2000-2002  
21 Within New York County  
22 Within Manhattan Borough:  
23 Tract: 014300 Blocks: 1000-1004 1008-1009  
24 Tract: 016200 Blocks: 1000-1002 2000 3000-3001 4000-4001 5000-5001  
25 Tract: 016400 Blocks: 1000-1001 4000  
26 Tract: 016600 Blocks: 1000-1001 2000-2001 4000-4001 5000-5001  
27 Tract: 017800 Blocks: 1000-1001 2000-2002 3000-3008  
28 Tract: 019200 Blocks: 1000-1006 2000 3000  
29 Tract: 019701 Block: 1000  
30 14. Congressional District 14.  
31 Within Bronx County  
32 Within Bronx Borough:  
33 Tract: 006000  
34 Tract: 011000  
35 Tract: 014400  
36 Tract: 015200  
37 Tract: 016600  
38 Tract: 019400  
39 Tract: 020000  
40 Tract: 020200  
41 Tract: 020400  
42 Tract: 020601  
43 Tract: 021001  
44 Tract: 021002  
45 Tract: 021200  
46 Tract: 021601  
47 Tract: 021800  
48 Tract: 022000  
49 Tract: 022200  
50 Tract: 022401  
51 Tract: 022403  
52 Tract: 022404  
53 Tract: 022800  
54 Tract: 023000  
55 Tract: 023200  
56 Tract: 023600

- 1 Tract: 023800
- 2 Tract: 024000
- 3 Tract: 024400
- 4 Tract: 024600
- 5 Tract: 024800
- 6 Tract: 025000
- 7 Tract: 025200
- 8 Tract: 025400
- 9 Tract: 025600
- 10 Tract: 026601
- 11 Tract: 026602
- 12 Tract: 028400
- 13 Tract: 028600
- 14 Tract: 028800
- 15 Tract: 029600
- 16 Tract: 030000
- 17 Tract: 031200
- 18 Tract: 036100
- 19 Within Queens County
- 20 Within Queens Borough:
- 21 Tract: 005500
- 22 Tract: 006300
- 23 Tract: 006501
- 24 Tract: 006502
- 25 Tract: 006900
- 26 Tract: 007100
- 27 Tract: 007300
- 28 Tract: 007900
- 29 Tract: 008300
- 30 Tract: 009500
- 31 Tract: 009700
- 32 Tract: 009900
- 33 Tract: 010100
- 34 Tract: 010300
- 35 Tract: 010500
- 36 Tract: 010701
- 37 Tract: 011100
- 38 Tract: 011300
- 39 Tract: 011500
- 40 Tract: 011700
- 41 Tract: 011900
- 42 Tract: 012100
- 43 Tract: 012301
- 44 Tract: 012500
- 45 Tract: 013500
- 46 Tract: 013700
- 47 Tract: 014100
- 48 Tract: 014300
- 49 Tract: 014500
- 50 Tract: 014700
- 51 Tract: 014900
- 52 Tract: 015100
- 53 Tract: 015300
- 54 Tract: 015500
- 55 Tract: 015700
- 56 Tract: 015900

S. 8172--A

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A. 9039--A

1 Tract: 016100  
2 Tract: 016300  
3 Tract: 016900  
4 Tract: 017102  
5 Tract: 017901  
6 Tract: 018101  
7 Tract: 018102  
8 Tract: 018300  
9 Tract: 018501  
10 Tract: 018502  
11 Tract: 018700  
12 Tract: 018900  
13 Tract: 019901  
14 Tract: 019902  
15 Tract: 019903  
16 Tract: 020500  
17 Tract: 022900  
18 Tract: 023501  
19 Tract: 023502  
20 Tract: 025100  
21 Tract: 025301  
22 Tract: 025302  
23 Tract: 025500  
24 Tract: 025700  
25 Tract: 026901  
26 Tract: 027102  
27 Tract: 027301  
28 Tract: 027302  
29 Tract: 027500  
30 Tract: 027701  
31 Tract: 027702  
32 Tract: 027900  
33 Tract: 028100  
34 Tract: 028300  
35 Tract: 028500  
36 Tract: 028700  
37 Tract: 028900  
38 Tract: 029100  
39 Tract: 029300  
40 Tract: 029500  
41 Tract: 029700  
42 Tract: 029900  
43 Tract: 030903  
44 Tract: 030904  
45 Tract: 030905  
46 Tract: 030906  
47 Tract: 031700  
48 Tract: 032700  
49 Tract: 032900  
50 Tract: 033100  
51 Tract: 033700  
52 Tract: 033900  
53 Tract: 034700  
54 Tract: 035100  
55 Tract: 035300  
56 Tract: 035700



1 Tract: 036100  
2 Tract: 036300  
3 Tract: 036500  
4 Tract: 036700  
5 Tract: 037100  
6 Tract: 037300  
7 Tract: 037501  
8 Tract: 037502  
9 Tract: 037700  
10 Tract: 037900  
11 Tract: 038100  
12 Tract: 038301  
13 Tract: 039901  
14 Tract: 039902  
15 Tract: 040101  
16 Tract: 040102  
17 Tract: 040301  
18 Tract: 040302  
19 Tract: 040501  
20 Tract: 040502  
21 Tract: 040701  
22 Tract: 040702  
23 Tract: 040901  
24 Tract: 040902  
25 Tract: 041100  
26 Tract: 041300  
27 Tract: 041500  
28 Tract: 042700  
29 Tract: 043900  
30 Tract: 044301  
31 Tract: 044302  
32 Tract: 045500  
33 Tract: 046300  
34 Tract: 046500  
35 Tract: 046902  
36 Tract: 090700  
37 Tract: 091900  
38 Tract: 092500  
39 Tract: 092900  
40 Tract: 093900  
41 Tract: 094500  
42 Tract: 094700  
43 Tract: 097300  
44 Tract: 098100  
45 Tract: 102900  
46 Tract: 103900  
47 Within Bronx County  
48 Within Bronx Borough:  
49 Tract: 000100 Blocks: 1000-1003  
50 Tract: 006200 Blocks: 1000-1001 2000 3000 4000-4002  
51 Tract: 007200 Blocks: 3000 3002-3003  
52 Tract: 007600 Blocks: 1000-1001 4000-4001  
53 Tract: 009000 Blocks: 0001 0003 1004-1006 1009 2000-2020  
54 Tract: 009200 Blocks: 1000-1007 2000-2001 3000-3003 3005 4000-4001  
55 5000-5001 5003  
56 Tract: 009600 Blocks: 1000-1005 2000-2007 2009-2016 2020-2025



S. 8172--A

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A. 9039--A

1 Tract: 013000 Blocks: 1006-1008  
 2 Tract: 013200 Blocks: 0001 1000-1003 2000-2008 3002-3004  
 3 3010-3011 4000-4005 5000-5010  
 4 Tract: 016100 Blocks: 1000 1002  
 5 Tract: 018400 Blocks: 2003-2005 2008-2009 3000-3007 4000-4009  
 6 Tract: 021602 Blocks: 1000-1001 2000 3000-3002 4000-4002 5000-5002  
 7 6000  
 8 Tract: 026400 Blocks: 2000-2009 3000-3007 4000-4008  
 9 Tract: 027600 Blocks: 0001 1005-1014 1016-1019 1022  
 10 Tract: 030202 Blocks: 2000-2001  
 11 Tract: 031000 Blocks: 1005-1011 2008-2014 3001-3009  
 12 Tract: 031400 Blocks: 2000 2006-2007  
 13 Tract: 033400 Blocks: 1008-1010 1012-1031  
 14 Tract: 035900 Blocks: 1004-1009 1014-1017  
 15 Tract: 036300 Blocks: 1001 2000 3002 4004-4005  
 16 Tract: 039700 Block: 1001  
 17 Tract: 050400 Blocks: 0006 1001-1004 1010 1012 1015-1016  
 18 Tract: 000104 Blocks: 1031 1038  
 19 Tract: 001902 Block: 1016  
 20 Tract: 003100 Blocks: 2001-2005 2009 1003 2009  
 21 Tract: 003301 Blocks: 1003 1015-1019  
 22 Tract: 005100 Blocks: 1003 2006  
 23 Tract: 005300 Block: 4003  
 24 Tract: 005700 Blocks: 1000-1006 2001 3000-3004  
 25 Tract: 005900 Blocks: 1000-1004 2000-2001 3001  
 26 Tract: 006100 Blocks: 1001 2000-2001 3000 4000-4002  
 27 Tract: 008100 Blocks: 1000-1001 1003-1006  
 28 Tract: 009100 Blocks: 1000 1003 2000-2004  
 29 Tract: 017101 Blocks: 1000-1013  
 30 Tract: 017902 Blocks: 1000-1009 1012-1025 1027-1032  
 31 Tract: 021900 Blocks: 1000-1016 1018-1022  
 32 Tract: 024300 Blocks: 1003-1013 2000-2016 3005-3006  
 33 Tract: 024500 Blocks: 1000-1005 2000-2004 3002-3006 4000-4006  
 34 Tract: 024900 Block: 3003  
 35 Tract: 025900 Blocks: 1000-1011 2000-2001  
 36 Tract: 026100 Blocks: 1000-1003 2000-2001 3000-3001 4000-4003  
 37 Tract: 026300 Blocks: 1000-1009  
 38 Tract: 026501 Blocks: 2000-2003 2007  
 39 Tract: 026700 Blocks: 1000-1002 3000-3003  
 40 Tract: 027101 Blocks: 1000-1001  
 41 Tract: 038302 Blocks: 0001 1000-1020 1022-1031 1033 1067 1089  
 42 Tract: 043701 Blocks: 1000-1002 2000-2003 2005-2009  
 43 Tract: 043702 Blocks: 1001-1005 2000-2003 3000-3003  
 44 Tract: 046100 Blocks: 1000 2000-2003  
 45 Tract: 046700 Blocks: 1000-1003 2000-2001 3000-3001 4000  
 46 Tract: 046901 Block: 3000  
 47 Tract: 086900 Blocks: 2000 2005-2007  
 48 Tract: 088902 Block: 1000  
 49 Tract: 088903 Blocks: 1002-1003 2002-2003 3003  
 50 Tract: 098700 Blocks: 1000-1012 2000-2014  
 51 Tract: 099100 Blocks: 1001-1004 2001-2002 3005 3015 3017-3019 4001-  
 52 4020 4023-4025 5000-5012 5014-5016  
 53 Tract: 101700 Blocks: 1003-1004 3000-3008 4000-4002 6006-6009  
 54 7000-7004  
 55 Tract: 103300 Blocks: 1000-1009 2000-2005 3000  
 56 15. Congressional District 15.



1 Within Bronx County  
2 Within Bronx Borough:  
3 Tract: 000200  
4 Tract: 000400  
5 Tract: 001600  
6 Tract: 001901  
7 Tract: 001902  
8 Tract: 001903  
9 Tract: 001904  
10 Tract: 002001  
11 Tract: 002002  
12 Tract: 002300  
13 Tract: 002400  
14 Tract: 002500  
15 Tract: 002701  
16 Tract: 002702  
17 Tract: 002800  
18 Tract: 003100  
19 Tract: 003300  
20 Tract: 003500  
21 Tract: 003700  
22 Tract: 003800  
23 Tract: 003900  
24 Tract: 004001  
25 Tract: 004100  
26 Tract: 004200  
27 Tract: 004300  
28 Tract: 004400  
29 Tract: 004600  
30 Tract: 004800  
31 Tract: 005001  
32 Tract: 005002  
33 Tract: 005100  
34 Tract: 005200  
35 Tract: 005300  
36 Tract: 005400  
37 Tract: 005600  
38 Tract: 005902  
39 Tract: 006100  
40 Tract: 006301  
41 Tract: 006302  
42 Tract: 006500  
43 Tract: 006700  
44 Tract: 006800  
45 Tract: 006900  
46 Tract: 007000  
47 Tract: 007100  
48 Tract: 007300  
49 Tract: 007400  
50 Tract: 007500  
51 Tract: 007700  
52 Tract: 007800  
53 Tract: 007900  
54 Tract: 008300  
55 Tract: 008400  
56 Tract: 008500



1 Tract: 008600  
2 Tract: 008700  
3 Tract: 008900  
4 Tract: 009301  
5 Tract: 009302  
6 Tract: 009800  
7 Tract: 011502  
8 Tract: 011701  
9 Tract: 011702  
10 Tract: 011900  
11 Tract: 012101  
12 Tract: 012102  
13 Tract: 012300  
14 Tract: 012500  
15 Tract: 012701  
16 Tract: 012901  
17 Tract: 013100  
18 Tract: 013300  
19 Tract: 013500  
20 Tract: 014100  
21 Tract: 014300  
22 Tract: 014500  
23 Tract: 014701  
24 Tract: 014702  
25 Tract: 014900  
26 Tract: 015100  
27 Tract: 015300  
28 Tract: 015500  
29 Tract: 015700  
30 Tract: 015900  
31 Tract: 016300  
32 Tract: 017300  
33 Tract: 017500  
34 Tract: 017701  
35 Tract: 017702  
36 Tract: 017901  
37 Tract: 017902  
38 Tract: 018101  
39 Tract: 018102  
40 Tract: 018301  
41 Tract: 018302  
42 Tract: 018501  
43 Tract: 018502  
44 Tract: 018900  
45 Tract: 019300  
46 Tract: 019500  
47 Tract: 019700  
48 Tract: 019900  
49 Tract: 020100  
50 Tract: 020501  
51 Tract: 020502  
52 Tract: 020900  
53 Tract: 021100  
54 Tract: 021301  
55 Tract: 021302  
56 Tract: 021502



1 Tract: 021700  
2 Tract: 021900  
3 Tract: 022101  
4 Tract: 022102  
5 Tract: 022300  
6 Tract: 022500  
7 Tract: 029301  
8 Tract: 029302  
9 Tract: 029500  
10 Tract: 029700  
11 Tract: 030100  
12 Tract: 030701  
13 Tract: 030900  
14 Tract: 031600  
15 Tract: 031800  
16 Tract: 031900  
17 Tract: 032300  
18 Tract: 032400  
19 Tract: 032600  
20 Tract: 032800  
21 Tract: 033000  
22 Tract: 033201  
23 Tract: 033202  
24 Tract: 033500  
25 Tract: 033601  
26 Tract: 033700  
27 Tract: 034300  
28 Tract: 034500  
29 Tract: 035100  
30 Tract: 036501  
31 Tract: 036502  
32 Tract: 036700  
33 Tract: 036901  
34 Tract: 036902  
35 Tract: 037100  
36 Tract: 037300  
37 Tract: 038700  
38 Tract: 038900  
39 Tract: 039100  
40 Tract: 039300  
41 Tract: 041100  
42 Tract: 041300  
43 Tract: 041500  
44 Tract: 041900  
45 Tract: 042100  
46 Tract: 042300  
47 Tract: 042500  
48 Tract: 042901  
49 Tract: 042902  
50 Tract: 043101  
51 Tract: 043102  
52 Tract: 000100 Blocks: 0001-0002  
53 Tract: 006200 Blocks: 1002-1005 4000 5000-5002  
54 Tract: 006400 Blocks: 1000-1004 2000 3000-3001  
55 Tract: 007200 Blocks: 1000-1003 2000-2002 3001 3004 4000  
56 Tract: 007600 Blocks: 2000-2001 3000-3001 4002-4005 5000-5005



S. 8172--A

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A. 9039--A

1 Tract: 009000 Blocks: 0002 1000-1003 1007-1008 1010 3000-3001  
 2 4000-4003 5000  
 3 Tract: 009200 Blocks: 3004 3006 5002 5004  
 4 Tract: 009600 Blocks: 1006-1008 2008 2017-2019  
 5 Tract: 016100 Blocks: 1001 1003-1010 2000-2002 3000 4000-4001  
 6 Tract: 016500 Blocks: 1000 1007-1009 1016-1018 1020-1023  
 7 Tract: 016700 Blocks: 1000-1001 2003 2006 2007-2009  
 8 Tract: 016900 Blocks: 1002-1006  
 9 Tract: 017100 Block: 1000  
 10 Tract: 021501 Blocks: 1001 3000-3001  
 11 Tract: 021602 Blocks: 3003-3004  
 12 Tract: 022701 Blocks: 1000-1001 3001-3005  
 13 Tract: 022702 Blocks: 1001-1006  
 14 Tract: 022703 Blocks: 1001-1005  
 15 Tract: 023301 Blocks: 1000 3000-3001  
 16 Tract: 024300 Block: 2001  
 17 Tract: 024700 Blocks: 1001 2000-2004  
 18 Tract: 025700 Blocks: 1006-1008  
 19 Tract: 028100 Block: 3000  
 20 Tract: 028300 Block: 2001  
 21 Tract: 028500 Blocks: 1000-1001 2000 3000-3002 4002-4003  
 22 Tract: 028700 Blocks: 1000 1005  
 23 Tract: 028900 Blocks: 3000 3005  
 24 Tract: 031400 Blocks: 1000-1005 2001-2005  
 25 Tract: 033400 Blocks: 1000-1007 1011 1022 1032  
 26 Tract: 033801 Blocks: 1002-1003 2000-2002  
 27 Tract: 034000 Blocks: 3000 4000-4003  
 28 Tract: 034200 Blocks: 2003-2010  
 29 Tract: 034400 Blocks: 1000-1002  
 30 Tract: 034800 Blocks: 4000-4005  
 31 Tract: 035900 Blocks: 1000-1003 1010-1013  
 32 Tract: 036300 Blocks: 1000 3000-3001 4000-4003 4006-4008 5000-5002  
 33 6000-6007  
 34 Tract: 037504 Blocks: 1008 2000 2003 3002-3003  
 35 Tract: 038500 Block: 3000  
 36 Tract: 039500 Blocks: 4000 4013  
 37 Tract: 039700 Blocks: 1000 1002-1016 2000-2002  
 38 Tract: 040502 Blocks: 3000-3001 4000-4001  
 39 Tract: 040702 Blocks: 1000-1002 2001-2003  
 40 Tract: 040900 Blocks: 1000-1004  
 41 Tract: 043503 Blocks: 1001-1022  
 42 16. Congressional District 16.  
 43 Within Putnam County  
 44 All of Carmel town  
 45 All of Putnam Valley town  
 46 Within Westchester County  
 47 All of Eastchester town  
 48 All of Harrison town  
 49 All of Mount Vernon city  
 50 All of North Castle town  
 51 All of Scarsdale town  
 52 All of Somers town  
 53 All of Yonkers city  
 54 All of Yorktown town  
 55 Within Bronx County  
 56 Within Bronx Borough:



S. 8172--A

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A. 9039--A

1 Tract: 030201  
2 Tract: 033602  
3 Tract: 033802  
4 Tract: 035000  
5 Tract: 035600  
6 Tract: 035800  
7 Tract: 036000  
8 Tract: 036400  
9 Tract: 036800  
10 Tract: 037000  
11 Tract: 037200  
12 Tract: 037400  
13 Tract: 037600  
14 Tract: 037800  
15 Tract: 038000  
16 Tract: 038200  
17 Tract: 038600  
18 Tract: 038800  
19 Tract: 039000  
20 Tract: 039200  
21 Tract: 039400  
22 Tract: 039600  
23 Tract: 039800  
24 Tract: 040400  
25 Tract: 040600  
26 Tract: 040800  
27 Tract: 041400  
28 Tract: 041800  
29 Tract: 042000  
30 Tract: 042200  
31 Tract: 042400  
32 Tract: 042600  
33 Tract: 042800  
34 Tract: 043000  
35 Tract: 043400  
36 Tract: 043501  
37 Tract: 043502  
38 Tract: 043600  
39 Tract: 044200  
40 Tract: 044400  
41 Tract: 044800  
42 Tract: 044901  
43 Tract: 044902  
44 Tract: 045101  
45 Tract: 045102  
46 Tract: 045800  
47 Tract: 046000  
48 Tract: 046203  
49 Tract: 046204  
50 Tract: 046205  
51 Tract: 046206  
52 Tract: 046207  
53 Tract: 046208  
54 Tract: 046209  
55 Tract: 048401  
56 Tract: 048402



1 Within Westchester County  
 2 Within Bedford town:  
 3 Tract: 012803  
 4 Tract: 012804  
 5 Tract: 983000  
 6 Within Greenburgh town:  
 7 Tract: 010200  
 8 Tract: 010300  
 9 Within New Rochelle city:  
 10 Tract: 006200  
 11 Tract: 006301  
 12 Tract: 006400  
 13 Tract: 006600  
 14 Tract: 006700  
 15 Tract: 006802  
 16 Within White Plains city:  
 17 Tract: 009703  
 18 Within Bronx County  
 19 Within Bronx Borough:  
 20 Tract: 030202 Blocks: 1000 3000-3001 4000-4001  
 21 Tract: 031000 Blocks: 1000-1004 2000-2007 3000  
 22 Tract: 033801 Blocks: 1000-1001 1004  
 23 Tract: 034000 Blocks: 1000-1003 2000-2006  
 24 Tract: 034200 Blocks: 1000-1002 2000-2002 2008  
 25 Tract: 034400 Blocks: 2000-2008  
 26 Tract: 034800 Blocks: 1000-1011 2000 3000-3006  
 27 Tract: 043503 Block: 1000  
 28 Tract: 045600 Blocks: 1000-1005 2000-2007  
 29 Within Westchester County  
 30 Within Bedford town:  
 31 Tract: 012600 Blocks: 1022-1023 1034 2005-2009 2014-2015 2017-2021  
 32 3000-3034 4000-4024 5000-5015  
 33 Tract: 012700 Blocks: 2000-2007 2009 2012-2014 3000-3013 4000-4040  
 34 Within Westchester County  
 35 Within Mamaroneck town:  
 36 Tract: 006900 Block: 2009  
 37 Within New Rochelle city:  
 38 Tract: 006100 Blocks: 1010 3000-3010  
 39 Tract: 006302 Blocks: 1000-1010 1012-1014 2000 2005-2010  
 40 Tract: 006500 Blocks: 1000-1016 2000-2010 3000-3006 3012-3018  
 41 4000-4007 4010-4013  
 42 Tract: 006801 Blocks: 1000-1008 2001-2018 3000-3040 4000-4028  
 43 Within White Plains city:  
 44 Tract: 009600 Blocks: 2001-2002 2012 2014-2016 2020-2025  
 45 Tract: 009701 Blocks: 1000-1012 2001-2006 3000-3020  
 46 Tract: 009702 Blocks: 2000 2003-2005 2010-2033 3000-3022  
 47 17. Congressional District 17.  
 48 All of Rockland County  
 49 All of Sullivan County  
 50 Within Orange County  
 51 All of Chester town  
 52 Within Orange County  
 53 All of Deerpark town  
 54 All of Greenville town  
 55 All of Minisink town  
 56 All of Mount Hope town



1 All of Port Jervis city  
2 All of Tuxedo town  
3 All of Warwick town  
4 Within Westchester County  
5 All of Mount Kisco town  
6 All of Mount Pleasant town  
7 All of New Castle town  
8 All of Ossining town  
9 Within Orange County  
10 Within Monroe town:  
11 Tract: 014101  
12 Tract: 014201  
13 Tract: 014202  
14 Within Wawayanda town:  
15 Tract: 011801  
16 Tract: 011802  
17 Within Westchester County  
18 Within Greenburgh town:  
19 Tract: 010400  
20 Tract: 010500  
21 Tract: 010600  
22 Tract: 010701  
23 Tract: 010702  
24 Tract: 010801  
25 Tract: 010803  
26 Tract: 010804  
27 Tract: 010901  
28 Tract: 010902  
29 Tract: 010903  
30 Tract: 011000  
31 Tract: 011101  
32 Tract: 011102  
33 Tract: 011200  
34 Tract: 011300  
35 Tract: 011401  
36 Tract: 011402  
37 Tract: 011500  
38 Within White Plains city:  
39 Tract: 008801  
40 Tract: 008802  
41 Tract: 008901  
42 Tract: 008902  
43 Tract: 009000  
44 Tract: 009100  
45 Tract: 009201  
46 Tract: 009202  
47 Tract: 009300  
48 Tract: 009400  
49 Tract: 009500  
50 Within Orange County  
51 Within Monroe town:  
52 Tract: 014102 Blocks: 1000-1008 1013-1014 1017-1021 1038 2000-2013  
53 3000-3014 4000-4005 4009-4031  
54 Tract: 015003 Blocks: 2019-2021  
55 Tract: 015005 Blocks: 1000-1005 1011-1012  
56 Tract: 015007 Block: 1002

1 Tract: 015009 Blocks: 2001-2003  
2 Within Westchester County  
3 Within White Plains city:  
4 Tracts: 009600 Blocks: 1000-1010 2000 2003-2011 2013 2017-2019  
5 3000-3018 4000-4016  
6 Tracts: 009701 Block: 2000  
7 Tracts: 009702 Blocks: 1000-1002 2001-2002 2006-2009  
8 18. Congressional District 18.  
9 Within Dutchess County  
10 All of Amenia town  
11 All of Beacon city  
12 All of Beekman town  
13 All of Clinton town  
14 All of Dover town  
15 All of East Fishkill town  
16 All of Fishkill town  
17 All of LaGrange town  
18 All of North East town  
19 All of Pawling town  
20 All of Pine Plains town  
21 All of Pleasant Valley town  
22 All of Poughkeepsie city  
23 All of Poughkeepsie town  
24 All of Stanford town  
25 All of Union Vale town  
26 All of Wappinger town  
27 All of Washington town  
28 Within Orange County  
29 All of Blooming Grove town  
30 All of Cornwall town  
31 All of Crawford town  
32 All of Goshen town  
33 All of Hamptonburgh town  
34 All of Highlands town  
35 All of Middletown city  
36 All of Montgomery town  
37 All of New Windsor town  
38 All of Newburgh city  
39 All of Newburgh town  
40 All of Palm Tree town  
41 All of Wallkill town  
42 All of Woodbury town  
43 Within Putnam County  
44 All of Kent town  
45 All of Patterson town  
46 All of Philipstown town  
47 All of Southeast town  
48 Within Ulster County  
49 All of Lloyd town  
50 All of Marlborough town  
51 All of Plattekill town  
52 All of Rochester town  
53 All of Shawangunk town  
54 All of Wawarsing town  
55 Within Westchester County  
56 All of Cortlandt town



1 All of Lewisboro town  
2 All of North Salem town  
3 All of Peekskill city  
4 All of Pound Ridge town  
5 Within Dutchess County  
6 Within Hyde Park town:  
7 Tract: 070102  
8 Tract: 070201  
9 Tract: 070301  
10 Tract: 070401  
11 Tract: 070101 Blocks: 1015 1017-1019 1021-1023 1025-1035 2000-2013  
12 3016-3018 3020-3028 3030-3032  
13 Within Orange County  
14 Within Monroe town:  
15 Tract: 015003 Blocks: 2013-2014 2016-2017  
16 Within Wawayanda town:  
17 Tract: 001601 Blocks: 1015 1017 1022-1023  
18 Within Westchester County  
19 Within Bedford town:  
20 Tract: 012600 Blocks: 1000-1021 1024-1033 1035 2000-2004 2010-2013  
21 2016 2022  
22 Tract: 012700 Blocks: 1000-1027 2008 2010 2011  
23 19. Congressional District 19.  
24 All of Columbia County  
25 All of Delaware County  
26 All of Greene County  
27 Within Albany County  
28 All of Bethlehem town  
29 All of Coeymans town  
30 Within Broome County  
31 All of Binghamton city  
32 All of Binghamton town  
33 All of Conklin town  
34 All of Dickinson town  
35 All of Kirkwood town  
36 All of Sanford town  
37 All of Union town  
38 All of Vestal town  
39 All of Windsor town  
40 Within Chenango County  
41 All of Afton town  
42 All of Bainbridge town  
43 All of Columbus town  
44 All of Guilford town  
45 All of New Berlin town  
46 All of North Norwich town  
47 All of Norwich city  
48 All of Norwich town  
49 All of Oxford town  
50 All of Sherburne town  
51 Within Dutchess County  
52 All of Milan town  
53 All of Red Hook town  
54 All of Rhinebeck town  
55 Within Madison County  
56 All of Brookfield town



1 All of Eaton town  
2 All of Hamilton town  
3 All of Lebanon town  
4 All of Madison town  
5 Within Oneida County  
6 All of Augusta town  
7 All of Bridgewater town  
8 All of Kirkland town  
9 All of Marshall town  
10 All of New Hartford town  
11 All of Paris town  
12 All of Sangerfield town  
13 All of Utica city  
14 Within Otsego County  
15 All of Burlington town  
16 All of Butternuts town  
17 All of Decatur town  
18 All of Edmeston town  
19 All of Hartwick town  
20 All of Laurens town  
21 All of Maryland town  
22 All of Middlefield town  
23 All of Milford town  
24 All of Morris town  
25 All of New Lisbon town  
26 All of Oneonta city  
27 All of Oneonta town  
28 All of Otego town  
29 All of Otsego town  
30 All of Pittsfield town  
31 All of Roseboom town  
32 All of Unadilla town  
33 All of Westford town  
34 All of Worcester town  
35 Within Rensselaer County  
36 All of East Greenbush town  
37 All of Nassau town  
38 All of North Greenbush town  
39 All of Rensselaer city  
40 All of Sand Lake town  
41 All of Schodack town  
42 All of Stephentown town  
43 Within Ulster County  
44 All of Denning town  
45 All of Esopus town  
46 All of Gardiner town  
47 All of Hardenburgh town  
48 All of Hurley town  
49 All of Kingston city  
50 All of Kingston town  
51 All of Marbletown town  
52 All of New Paltz town  
53 All of Olive town  
54 All of Rosendale town  
55 All of Saugerties town  
56 All of Shandaken town



1 All of Ulster town  
 2 All of Woodstock town  
 3 Within Chenango County  
 4 Within Coventry town:  
 5 Tract: 970801 Blocks: 1057 1059-1060 1066-1070 3014-3015 3021  
 6 3023-3026 3030-3032  
 7 Tract: 970901 Blocks: 2006-2009 2012-2013 2023 2096-2097  
 8 Tract: 970902 Blocks: 1000-1005 1007-1011 1022 1030-1032 1062  
 9 2000-2003 2005-2016 2018-2021 2024-2030 2058  
 10 Tract: 971000 Block: 1059  
 11 Within Dutchess County  
 12 Within Hyde Park town:  
 13 Tract: 070101 Blocks: 1000-1014 1016 1020 1024 3000-3015 3019 3029  
 14 Within Rensselaer County  
 15 Within Berlin town:  
 16 Tract: 052103 Blocks: 1000-1007 1009-1012 1014-1052 2002 2010  
 17 2013-2020 2022-2025 2027  
 18 20. Congressional District 20.  
 19 All of Schenectady County  
 20 Within Albany County  
 21 All of Albany city  
 22 All of Berne town  
 23 All of Cohoes city  
 24 All of Colonie town  
 25 All of Green Island town  
 26 All of Guilderland town  
 27 All of Knox town  
 28 All of New Scotland town  
 29 All of Rensselaerville town  
 30 All of Watervliet city  
 31 All of Westerlo town  
 32 Within Montgomery County  
 33 All of Amsterdam city  
 34 All of Amsterdam town  
 35 All of Charleston town  
 36 All of Florida town  
 37 All of Glen town  
 38 All of Mohawk town  
 39 Within Rensselaer County  
 40 All of Troy city  
 41 Within Saratoga County  
 42 All of Ballston town  
 43 All of Charlton town  
 44 All of Clifton Park town  
 45 All of Galway town  
 46 All of Greenfield town  
 47 All of Halfmoon town  
 48 All of Malta town  
 49 All of Mechanicville city  
 50 All of Milton town  
 51 All of Moreau town  
 52 All of Northumberland town  
 53 All of Providence town  
 54 All of Saratoga Springs city  
 55 All of Waterford town  
 56 All of Wilton town



1 Within Warren County  
2 All of Glens Falls city  
3 All of Queensbury town  
4 Within Saratoga County  
5 Within Stillwater town:  
6 Tract: 062001  
7 Tract: 062100  
8 Tract: 062002 Blocks: 1025-1026 1028 1031 2015 2038-2041 2050 2053  
9 21. Congressional District 21.  
10 All of Clinton County  
11 All of Essex County  
12 All of Franklin County  
13 All of Fulton County  
14 All of Hamilton County  
15 All of Herkimer County  
16 All of Lewis County  
17 All of Schoharie County  
18 All of St. Lawrence County  
19 All of Washington County  
20 Within Jefferson County  
21 All of Antwerp town  
22 All of Champion town  
23 All of Philadelphia town  
24 All of Rutland town  
25 All of Wilna town  
26 Within Montgomery County  
27 All of Canajoharie town  
28 All of Minden town  
29 All of Palatine town  
30 All of Root town  
31 All of St. Johnsville town  
32 Within Oneida County  
33 All of Annsville town  
34 All of Ava town  
35 All of Boonville town  
36 All of Camden town  
37 All of Deerfield town  
38 All of Florence town  
39 All of Floyd town  
40 All of Forestport town  
41 All of Lee town  
42 All of Marcy town  
43 All of Remsen town  
44 All of Rome city  
45 All of Steuben town  
46 All of Trenton town  
47 All of Vernon town  
48 All of Verona town  
49 All of Vienna town  
50 All of Western town  
51 All of Westmoreland town  
52 All of Whitestown town  
53 Within Oswego County  
54 All of Amboy town  
55 All of Constantia town  
56 All of Hastings town



1 All of Parish town  
 2 All of West Monroe town  
 3 All of Williamstown town  
 4 Within Otsego County  
 5 All of Cherry Valley town  
 6 All of Exeter town  
 7 All of Plainfield town  
 8 All of Richfield town  
 9 All of Springfield town  
 10 Within Rensselaer County  
 11 All of Brunswick town  
 12 All of Grafton town  
 13 All of Hoosick town  
 14 All of Petersburgh town  
 15 All of Pittstown town  
 16 All of Poestenkill town  
 17 All of Schaghticoke town  
 18 Within Saratoga County  
 19 All of Corinth town  
 20 All of Day town  
 21 All of Edinburg town  
 22 All of Hadley town  
 23 All of Saratoga town  
 24 Within Warren County  
 25 All of Bolton town  
 26 All of Chester town  
 27 All of Hague town  
 28 All of Horicon town  
 29 All of Johnsbury town  
 30 All of Lake George town  
 31 All of Lake Luzerne town  
 32 All of Stony Creek town  
 33 All of Thurman town  
 34 All of Warrensburg town  
 35 Within Oswego County  
 36 Within Albion town:  
 37 Tract: 020501 Blocks: 1006-1009 1013-1095 2007 2009-2012 2014-2054  
 38 2057-2058 2061-2063  
 39 Tract: 020502 Blocks: 1000-1008 2000-2003  
 40 Within Rensselaer County  
 41 Within Berlin town:  
 42 Tract: 052103 Blocks: 1008 1013 2000-2009 2011-2012 2021 2026  
 43 Within Saratoga County  
 44 Within Stillwater town:  
 45 Tract: 062002 Blocks: 1000-1024 1029-1030 2000-2014 2016-2037  
 46 2042-2049 2051-2052  
 47 22. Congressional District 22.  
 48 All of Onondaga County  
 49 All of Tompkins County  
 50 Within Cayuga County  
 51 All of Auburn city  
 52 All of Aurelius town  
 53 All of Fleming town  
 54 All of Genoa town  
 55 All of Ledyard town  
 56 All of Locke town



1 All of Moravia town  
2 All of Niles town  
3 All of Owasco town  
4 All of Scipio town  
5 All of Sempronius town  
6 All of Sennett town  
7 All of Springport town  
8 All of Summerhill town  
9 All of Throop town  
10 All of Venice town  
11 Within Cortland County  
12 All of Cortland city  
13 All of Cortlandville town  
14 All of Cuyler town  
15 All of Homer town  
16 All of Preble town  
17 All of Scott town  
18 All of Solon town  
19 All of Taylor town  
20 All of Truxton town  
21 Within Madison County  
22 All of Cazenovia town  
23 All of DeRuyter town  
24 All of Fenner town  
25 All of Georgetown town  
26 All of Lenox town  
27 All of Lincoln town  
28 All of Nelson town  
29 All of Oneida city  
30 All of Smithfield town  
31 All of Stockbridge town  
32 All of Sullivan town  
33 Within Ontario County  
34 All of Geneva city  
35 All of Geneva town  
36 Within Schuyler County  
37 All of Hector town  
38 Within Seneca County  
39 All of Covert town  
40 All of Fayette town  
41 All of Geneva city  
42 All of Lodi town  
43 All of Ovid town  
44 All of Romulus town  
45 All of Seneca Falls town  
46 All of Varick town  
47 Within Cayuga County  
48 Within Brutus town:  
49 Tract: 040400 Blocks: 1032-1033 1036-1037 1041-1056 1058-1072  
50 2031-2033 2035-2040 2047-2055 3000-3007 3009-3043  
51 23. Congressional District 23.  
52 All of Allegany County  
53 All of Cattaraugus County  
54 All of Chautauqua County  
55 All of Chemung County  
56 All of Steuben County



1 All of Tioga County  
2 Within Broome County  
3 All of Barker town  
4 All of Chenango town  
5 All of Colesville town  
6 All of Fenton town  
7 All of Lisle town  
8 All of Maine town  
9 All of Nanticoke town  
10 All of Triangle town  
11 Within Chenango County  
12 All of German town  
13 All of Greene town  
14 All of Lincklaen town  
15 All of McDonough town  
16 All of Otselic town  
17 All of Pharsalia town  
18 All of Pitcher town  
19 All of Plymouth town  
20 All of Preston town  
21 All of Smithville town  
22 All of Smyrna town  
23 Within Cortland County  
24 All of Cincinnatus town  
25 All of Freetown town  
26 All of Harford town  
27 All of Lapeer town  
28 All of Marathon town  
29 All of Virgil town  
30 All of Willet town  
31 Within Erie County  
32 All of Aurora town  
33 All of Boston town  
34 All of Brant town  
35 All of Cattaraugus Reservation  
36 All of Colden town  
37 All of Collins town  
38 All of Concord town  
39 All of Eden town  
40 All of Evans town  
41 All of Hamburg town  
42 All of Holland town  
43 All of North Collins town  
44 All of Orchard Park town  
45 All of Sardinia town  
46 All of Wales town  
47 Within Livingston County  
48 All of Mount Morris town  
49 All of North Dansville town  
50 All of Nunda town  
51 All of Ossian town  
52 All of Portage town  
53 All of Sparta town  
54 All of Springwater town  
55 All of West Sparta town  
56 Within Schuyler County



1 All of Catharine town  
 2 All of Cayuta town  
 3 All of Dix town  
 4 All of Montour town  
 5 All of Orange town  
 6 All of Reading town  
 7 All of Tyrone town  
 8 Within Wyoming County  
 9 All of Arcade town  
 10 All of Castile town  
 11 All of Eagle town  
 12 All of Gainesville town  
 13 All of Genesee Falls town  
 14 All of Java town  
 15 All of Pike town  
 16 All of Sheldon town  
 17 All of Wethersfield town  
 18 Within Yates County  
 19 All of Barrington town  
 20 All of Benton town  
 21 All of Jerusalem town  
 22 All of Milo town  
 23 All of Potter town  
 24 All of Starkey town  
 25 All of Torrey town  
 26 Within Chenango County  
 27 Within Coventry town:  
 28 Tract: 970801 Blocks: 3027-3029 3033-3041  
 29 Tract: 970802 Blocks: 1049-1050 1052-1056  
 30 Tract: 970902 Blocks: 1006 1023-1024 1029 2004  
 31 Tract: 971000 Blocks: 1000-1004 1020-1040 1053-1058 1072-1074  
 32 Within Wyoming County  
 33 Within Orangeville town:  
 34 Tract: 970400 Blocks: 1010-1014 1025-1026 1028 3005-3011 3014-3020  
 35 3041-3042 3044-3046  
 36 24. Congressional District 24.  
 37 All of Genesee County  
 38 All of Orleans County  
 39 All of Wayne County  
 40 Within Cayuga County  
 41 All of Cato town  
 42 All of Conquest town  
 43 All of County subdivisions not defined  
 44 All of Ira town  
 45 All of Mentz town  
 46 All of Montezuma town  
 47 All of Sterling town  
 48 All of Victory town  
 49 Within Erie County  
 50 All of Alden town  
 51 All of Clarence town  
 52 All of Elma town  
 53 All of Lancaster town  
 54 All of Marilla town  
 55 All of Newstead town  
 56 All of Tonawanda Reservation



1 Within Jefferson County  
2 All of Adams town  
3 All of Alexandria town  
4 All of Brownville town  
5 All of Cape Vincent town  
6 All of Clayton town  
7 All of County subdivisions not defined  
8 All of Ellisburg town  
9 All of Henderson town  
10 All of Hounsfield town  
11 All of Le Ray town  
12 All of Lorraine town  
13 All of Lyme town  
14 All of Orleans town  
15 All of Pamelaia town  
16 All of Rodman town  
17 All of Theresa town  
18 All of Watertown city  
19 All of Watertown town  
20 All of Worth town  
21 Within Livingston County  
22 All of Avon town  
23 All of Caledonia town  
24 All of Conesus town  
25 All of Geneseo town  
26 All of Groveland town  
27 All of Leicester town  
28 All of Lima town  
29 All of Livonia town  
30 All of York town  
31 Within Monroe County  
32 All of Clarkson town  
33 All of Hamlin town  
34 All of Riga town  
35 All of Wheatland town  
36 Within Niagara County  
37 All of Cambria town  
38 All of County subdivisions not defined  
39 All of Hartland town  
40 All of Lewiston town  
41 All of Lockport city  
42 All of Lockport town  
43 All of Newfane town  
44 All of Pendleton town  
45 All of Porter town  
46 All of Royalton town  
47 All of Somerset town  
48 All of Tonawanda Reservation  
49 All of Tuscarora Nation Reservation  
50 All of Wilson town  
51 Within Ontario County  
52 All of Bristol town  
53 All of Canadice town  
54 All of Farmington town  
55 All of Gorham town  
56 All of Manchester town



1 All of Naples town  
 2 All of Phelps town  
 3 All of Richmond town  
 4 All of Seneca town  
 5 All of South Bristol town  
 6 All of West Bloomfield town  
 7 Within Oswego County  
 8 All of Boylston town  
 9 All of County subdivisions not defined  
 10 All of Fulton city  
 11 All of Granby town  
 12 All of Hannibal town  
 13 All of Mexico town  
 14 All of Minetto town  
 15 All of New Haven town  
 16 All of Orwell town  
 17 All of Oswego city  
 18 All of Oswego town  
 19 All of Palermo town  
 20 All of Redfield town  
 21 All of Richland town  
 22 All of Sandy Creek town  
 23 All of Schroepfel town  
 24 All of Scriba town  
 25 All of Volney town  
 26 Within Seneca County  
 27 All of Junius town  
 28 All of Tyre town  
 29 All of Waterloo town  
 30 Within Wyoming County  
 31 All of Attica town  
 32 All of Bennington town  
 33 All of Covington town  
 34 All of Middlebury town  
 35 All of Perry town  
 36 All of Warsaw town  
 37 Within Yates County  
 38 All of Italy town  
 39 All of Middlesex town  
 40 Within Cayuga County  
 41 Within Brutus town:  
 42 Tract: 040400 Blocks: 1000-1031 1034-1035 1038-1040 1057 1073  
 43 2000-2030 2034 2041-2046 3008  
 44 Within Niagara County  
 45 Within Wheatfield town:  
 46 Tract: 022716 Blocks: 1001 1003  
 47 Tract: 022717 Blocks: 1009-1011 3016-3019  
 48 Within Ontario County  
 49 Within Hopewell town:  
 50 Tract: 051200 Blocks: 1000-1010 1017 1019-1020 1032-1040 1042-1058  
 51 3000-3007 3013 3015-3030 3038-3039 3047  
 52 Within Oswego County  
 53 Within Albion town:  
 54 Tract: 020501 Blocks: 1000-1005 1010-1012 1091-1092 2000-2006 2008  
 55 2013  
 56 Within Wyoming County

1 Within Orangeville town:  
 2 Tract: 970400 Blocks: 1000-1009 1024 1027 1029-1033 1036-1039  
 3 3000-3004 3012-3013 3021-3040 3043 3047-3057  
 4 25. Congressional District 25.  
 5 Within Monroe County  
 6 All of Brighton town  
 7 All of Chili town  
 8 All of County subdivisions not defined  
 9 All of East Rochester town  
 10 All of Gates town  
 11 All of Greece town  
 12 All of Henrietta town  
 13 All of Irondequoit town  
 14 All of Mendon town  
 15 All of Ogden town  
 16 All of Parma town  
 17 All of Penfield town  
 18 All of Perinton town  
 19 All of Pittsford town  
 20 All of Rochester city  
 21 All of Rush town  
 22 All of Sweden town  
 23 All of Webster town  
 24 Within Ontario County  
 25 All of Canandaigua city  
 26 All of Canandaigua town  
 27 All of East Bloomfield town  
 28 All of Victor town  
 29 Within Hopewell town:  
 30 Tract: 051200 Blocks: 1011-1016 1018 1021-1031 1041 2000-2018  
 31 3008-3012 3014 3031-3037 3040-3046 3048-3052  
 32 26. Congressional District 26.  
 33 Within Erie County  
 34 All of Amherst town  
 35 All of Buffalo city  
 36 All of Cheektowaga town  
 37 All of Grand Island town  
 38 All of Lackawanna city  
 39 All of Tonawanda city  
 40 All of Tonawanda town  
 41 All of West Seneca town  
 42 Within Niagara County  
 43 All of Niagara Falls city  
 44 All of Niagara town  
 45 All of North Tonawanda city  
 46 Within Wheatfield town:  
 47 Tract: 022713  
 48 Tract: 022714  
 49 Tract: 022715  
 50 Tract: 022716 Blocks: 1000 1002 1004-1022 2000-2022  
 51 Tract: 022717 Blocks: 1000-1008 2000-2016 3000-3015  
 52 Tract: 022901 Block: 2003  
 53 § 112. Separability of congressional districts. Each congressional  
 54 district created by this article shall be deemed a separate district for  
 55 the purpose of apportionment of the entire state into congressional  
 56 districts. If one or more congressional districts created by this arti-

1 cle are judicially found not to be in compliance with the decisions and  
2 mandates of a court of competent jurisdiction, only the defective  
3 district or districts and those immediately adjacent or contiguous ther-  
4 eto shall be reapportioned. All other districts shall be deemed to to be  
5 properly created.

6 § 2. Construction. a. This act shall be liberally construed to effec-  
7 tuate the purposes thereof and to apportion and district this state in  
8 compliance with constitutional and statutory requirements and shall  
9 supersede any inconsistent provision of law including but not limited to  
10 section 3 of chapter 17 of the laws of 2012.

11 b. It is intended that this act and the congressional districts  
12 described herein completely encompass all the area of the state. It is  
13 also intended that such districts apportioned on the basis of 2020 popu-  
14 lation, contain the whole number of persons in this state. It is  
15 further intended that the apportionment and districting provided for in  
16 this act result in the creation of districts containing equal population  
17 as nearly as practicable. It is also intended that no district shall  
18 include any of the area included within the description of any other  
19 district.

20 § 3. Saving clause. a. If the districts described in the act do not  
21 carry out the purposes thereof, because of unintentional omissions;  
22 duplications; overlapping areas; erroneous nomenclature; lack of  
23 adequate maps or descriptions of political subdivisions, wards, or other  
24 divisions thereof, or of their boundary lines; street closings, changes  
25 in names of streets, or other changes of public places; alteration of  
26 the boundary or courses of waters or waterways, filling in of lands  
27 underwater, accretion or other changes in shorelines or alteration of  
28 courses, rights of way, or lines of public utilities or other condi-  
29 tions, then the state board of elections, at the request of any person  
30 or candidate, aggrieved thereby, shall, by order, correct such omis-  
31 sions, overlappings, erroneous nomenclature, or other defects in the  
32 description of districts so as to accomplish the purposes and objectives  
33 of this act.

34 b. In promulgating such orders, the state board of elections, in addi-  
35 tion to achieving equality in the population of districts and ensuring  
36 that all areas of the state are completely and accurately encompassed in  
37 such districts, shall be guided by the following standards:

38 (1) Gaps in the description of any district shall be completed in a  
39 manner which results in a total description of that district consonant  
40 with the description of adjacent districts and in complete contiguity of  
41 districts.

42 (2) Areas of the state included within the descriptions of more than  
43 one district shall be allocated to the district having the lowest popu-  
44 lation.

45 (3) Areas of the state not included within the descriptions of any  
46 district shall be allocated to the adjacent district having the lowest  
47 population.

48 (4) In the event that the area subject to corrected description or  
49 allocation as provided in paragraph one, two or three of this subdivi-  
50 sion is of such size or contains such population that its inclusion as a  
51 unit in any district would result in substantial disparity in the size,  
52 shape or population of such district, then the state board of elections  
53 may allocate portions of such area to two or more districts.

54 (5) In any allocation of area or correction of descriptions made  
55 pursuant to this section, the state board of elections shall, consistent

1 with the foregoing standards, preserve the contiguity and compactness of  
2 districts and avoid the unnecessary division of political subdivisions.

3 c. Copies of such orders shall be filed by the state board of  
4 elections in its own office and in the office of the affected boards of  
5 election. A copy of each such order shall also be filed by the state  
6 board with the legislative bill drafting commission to facilitate it in  
7 performing its functions under section 70-b of the public officers law.  
8 In addition, a copy of such order shall be served upon the person or  
9 candidate, if any, who instituted the application for such an order. The  
10 state board of elections may adopt reasonable rules regulating the  
11 procedure for applications for orders under this section in the manner  
12 of serving and filing any notice or copy of orders relating thereto.

13 d. Upon the filing of such an order, the description of any affected  
14 district shall be deemed to have been corrected in the manner provided  
15 in such order to the full extent as if such correction had been  
16 contained in the original description set forth in this act.

17 e. In furtherance of effectuating the provisions of subdivision d of  
18 this section, the legislative bill drafting commission, upon receipt  
19 from the state board of elections of an order promulgated pursuant to  
20 subdivision b of this section, and upon the approval of the temporary  
21 president of the senate and the speaker of the assembly, shall cause the  
22 description of a congressional district altered pursuant to any such  
23 order to be revised accordingly within its data base of the laws of the  
24 state of New York so that such altered district may be contained in a  
25 publication of the state law and be certified to as a correct transcript  
26 of the text of law relating thereto such district in the manner author-  
27 ized by section 70-b of the public officers law.

28 f. If any part or provision of this act relating to any congressional  
29 district shall be adjudged invalid by a court of competent jurisdiction,  
30 such judgment shall: (1) be confined in its operation to the part or  
31 provision of this act or the district or districts described herein  
32 directly involved in the controversy in which such judgment shall have  
33 been rendered, and (2) not affect or impair the validity of the remain-  
34 ing parts, provisions or districts described in this act or elsewhere.

35 g. The congressional districts of this state, as existing immediately  
36 prior to the effective date of this act, shall continue to be the  
37 congressional districts of the state for the purpose of filling vacan-  
38 cies in the office of representative in congress at any special election  
39 held prior to the general election of the year 2022.

40 h. The congressional districts of this state, from and after the  
41 effective date of this act, shall be the congressional districts of the  
42 state for the purpose of designating and nominating candidates for  
43 representatives in congress, and for electing district delegates and  
44 alternate district delegates to national party conventions.

45 i. In order to provide for an orderly election of members of the  
46 congress from the state of New York and in recognition of the constitu-  
47 tional mandate that congressional districts shall be created by law  
48 subject to judicial review under such reasonable regulations as the  
49 legislature may prescribe, it is hereby determined and declared that no  
50 order of the court invalidating this act or part thereof shall be  
51 entered in a manner which will deprive the legislature of an opportunity  
52 to discharge its constitutional mandate. In any proceeding for judicial  
53 review of the provisions of this act, the determination of the court  
54 shall be embodied in a tentative order which shall become final 30 days  
55 after service of copies thereof upon the parties unless the court shall,  
56 in the interval, on application of any party, resettle its order.

1 j. If any clause, sentence, paragraph, section or part of this act  
2 shall be adjudged by any court of competent jurisdiction to be invalid,  
3 such judgment shall not affect, impair or invalidate the remainder ther-  
4 eof, but shall be confined in its operation to the clause, sentence,  
5 paragraph, section or part thereof directly involved in the controversy  
6 in which such judgment shall have been rendered.

7 § 4. Separability. If any clause, sentence, paragraph, section or  
8 part of this act shall be adjudged by any court of competent jurisdic-  
9 tion to be invalid, such judgment shall not affect, impair or invalidate  
10 the remainder thereof, but shall be confined in its operation to the  
11 clause, sentence, paragraph, section or part thereof directly involved  
12 in the controversy in which such judgment shall have been rendered.

13 § 5. This act shall take effect immediately.

# STATE OF NEW YORK

S. 8196

A. 9167

## SENATE - ASSEMBLY

February 1, 2022

IN SENATE -- Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state law, in relation to congressional districts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 9 of section 111 of the state law, as added by  
2 a chapter of the laws of 2022 amending the state law relating to  
3 creation of congressional districts, as proposed in legislative bill  
4 numbers S. 8172-A and A. 9039-A, is amended to read as follows:  
5 9. Congressional District 9.  
6 Within Kings County  
7 Within Brooklyn Borough:  
8 Tract: 021300  
9 Tract: 021500  
10 Tract: 021700  
11 Tract: 021900  
12 Tract: 027000  
13 Tract: 029800  
14 Tract: 030600  
15 Tract: 031701  
16 Tract: 031702  
17 Tract: 031900  
18 Tract: 032100  
19 Tract: 032300  
20 Tract: 032500  
21 Tract: 032700  
22 Tract: 032900  
23 Tract: 033100  
24 Tract: 033300  
25 Tract: 033500  
26 Tract: 033701

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD14150-05-2

S. 8196

2

A. 9167

1 Tract: 033702  
2 Tract: 033900  
3 Tract: 034100  
4 Tract: 034300  
5 Tract: 034500  
6 Tract: 034901  
7 Tract: 034902  
8 Tract: 035101  
9 Tract: 035102  
10 Tract: 035301  
11 Tract: 035302  
12 Tract: 035500  
13 Tract: 035701  
14 Tract: 035702  
15 Tract: 035900  
16 Tract: 036100  
17 Tract: 040000  
18 Tract: 040200  
19 Tract: 040400  
20 Tract: 040600  
21 Tract: 040800  
22 Tract: 041000  
23 Tract: 041200  
24 Tract: 041800  
25 Tract: 042000  
26 Tract: 042200  
27 Tract: 042400  
28 Tract: 042600  
29 Tract: 042800  
30 Tract: 043000  
31 Tract: 043200  
32 Tract: 043400  
33 Tract: 043600  
34 Tract: 043800  
35 Tract: 044000  
36 Tract: 044200  
37 Tract: 044400  
38 Tract: 044600  
39 Tract: 044800  
40 Tract: 045000  
41 Tract: 045200  
42 Tract: 045400  
43 Tract: 045600  
44 Tract: 045800  
45 Tract: 046000  
46 Tract: 046201  
47 Tract: 046202  
48 Tract: 048000  
49 Tract: 048200  
50 Tract: 048400  
51 Tract: 049000  
52 Tract: 049200  
53 Tract: 049400  
54 Tract: 050600  
55 Tract: 050801  
56 Tract: 050803



S. 8196

3

A. 9167

1 Tract: 050804  
2 Tract: 051001  
3 Tract: 051002  
4 Tract: 051200  
5 Tract: 051400  
6 Tract: 051601  
7 Tract: 051602  
8 Tract: 051800  
9 Tract: 052000  
10 Tract: 052600  
11 Tract: 052800  
12 Tract: 053000  
13 Tract: 053200  
14 Tract: 053400  
15 Tract: 053800  
16 Tract: 054200  
17 Tract: 054400  
18 Tract: 054600  
19 Tract: 054800  
20 Tract: 055000  
21 Tract: 055200  
22 Tract: 055400  
23 Tract: 056400  
24 Tract: 064000  
25 Tract: 064200  
26 Tract: 064400  
27 Tract: 064600  
28 Tract: 073400  
29 Tract: 073800  
30 Tract: 074000  
31 Tract: 074200  
32 Tract: 074400  
33 Tract: 074600  
34 Tract: 074800  
35 Tract: 075000  
36 Tract: 075200  
37 Tract: 075400  
38 Tract: 075600  
39 Tract: 075800  
40 Tract: 076000  
41 Tract: 076200  
42 Tract: 076400  
43 Tract: 076600  
44 Tract: 076800  
45 Tract: 077000  
46 Tract: 077200  
47 Tract: 077400  
48 Tract: 077600  
49 Tract: 078000  
50 Tract: 078200  
51 Tract: 078400  
52 Tract: 078601  
53 Tract: 078602  
54 Tract: 078801  
55 Tract: 078802  
56 Tract: 079001



S. 8196

4

A. 9167

1 Tract: 079002  
2 Tract: 079201  
3 Tract: 079202  
4 Tract: 079400  
5 Tract: 079601  
6 Tract: 079602  
7 Tract: 079801  
8 Tract: 079802  
9 Tract: 080000  
10 Tract: 080200  
11 Tract: 080400  
12 Tract: 080600  
13 Tract: 080800  
14 Tract: 081000  
15 Tract: 081400  
16 Tract: 081600  
17 Tract: 081800  
18 Tract: 082000  
19 Tract: 082200  
20 Tract: 082400  
21 Tract: 082600  
22 Tract: 082800  
23 Tract: 083000  
24 Tract: 083200  
25 Tract: 083400  
26 Tract: 083600  
27 Tract: 083800  
28 Tract: 084000  
29 Tract: 084600  
30 Tract: 084800  
31 Tract: 085000  
32 Tract: 085200  
33 Tract: 085400  
34 Tract: 085600  
35 Tract: 085800  
36 Tract: 086000  
37 Tract: 086200  
38 Tract: 086400  
39 Tract: 086600  
40 Tract: 086800  
41 Tract: 087000  
42 Tract: 087200  
43 Tract: 087401  
44 Tract: 087600  
45 Tract: 087800  
46 Tract: 088001  
47 Tract: 088002  
48 Tract: 088200  
49 Tract: 088400  
50 Tract: 088600  
51 Tract: 088800  
52 Tract: 089000  
53 Tract: 089200  
54 Tract: 089400  
55 Tract: 089600  
56 Tract: 089800



S. 8196

5

A. 9167

1 Tract: 090000  
2 Tract: 090200  
3 Tract: 091200  
4 Tract: 092400  
5 Tract: 093200  
6 Tract: 093600  
7 Tract: 093800  
8 Tract: 094600  
9 Tract: 152200  
10 Tract: 017700 [Block]Blocks: 1000 1013  
11 Tract: 020500 Blocks: 1000-1001 2000-2001 3000-3001  
12 Tract: 020700 Blocks: 1000-1001  
13 Tract: 022100 Blocks: 1004-1005 2000-2002 3000-3002  
14 Tract: 024600 Blocks: 1000-1002 2001-2002 3000-3002  
15 Tract: 025400 Blocks: 1000-1002 2000-2003 3003  
16 Tract: 025600 Blocks: 1000-1005 2003  
17 Tract: 025800 Blocks: 1000-1002 2000-2002  
18 Tract: 026600 Blocks: 1000-1002 2002  
19 Tract: 026800 Blocks: 1000-1001 2000-2003 4000-4001  
20 Tract: 027200 Blocks: 1000-1001 2000-2001 3000  
21 Tract: 029600 Block: 1000  
22 Tract: 030000 Blocks: 1001 2000-2001 3000-3001 4000-4001 5000-5001  
23 6000  
24 Tract: 030200 Blocks: 1002-1003 2000-2002 3000-3002  
25 Tract: 030400 Blocks: 1000-1005 1010 2001-2004 3000-3008  
26 Tract: 030500 Blocks: 1004-1005 1008 2000-2002 3000-3002 4000-4002  
27 Tract: 030900 Blocks: 2001-2002  
28 Tract: 031100 Blocks: 1004 2000-2002  
29 Tract: 031300 Blocks: 2000-2002 3000-3002  
30 Tract: 031401 Blocks: 1000-1005 2000 5000-5001 6000-6001  
31 Tract: 031500 Blocks: 2000-2001 3000-3001  
32 Tract: 034700 Blocks: 1001-1002 2000-2001 3000-3001  
33 Tract: 036300 Blocks: 1004-1006 2000-2003 3000-3004 4000-4001  
34 Tract: 038600 Blocks: 2002-2003  
35 Tract: 039600 Block: 2001  
36 Tract: 039800 Blocks: 1001-1008 2000-2005  
37 Tract: 041401 Blocks: 1000-1003 2002  
38 Tract: 041402 Blocks: 1000-1003 2000-2002  
39 Tract: 041600 Blocks: 1000-1007  
40 Tract: 046800 Blocks: 1002-1005  
41 Tract: 048800 Blocks: 1000 1003 2000 3000-3001  
42 Tract: 049600 Blocks: 1000-1001  
43 Tract: 055600 Blocks: 1000-1001 2000 3000-3001  
44 Tract: 055800 Blocks: 1000 2000-2002  
45 Tract: 056000 Blocks: 1000 2000 3000-3001  
46 Tract: 056200 Blocks: 1000-1001 2000-2001  
47 Tract: 063600 Blocks: 1000-1003  
48 Tract: 063800 Blocks: 1000-1003 2000  
49 Tract: 064800 Blocks: 1000-1004  
50 Tract: 065000 Blocks: 1000-1001  
51 Tract: 065600 Block: 1003  
52 Tract: 072200 Block: 2005  
53 Tract: 072400 Blocks: 2002-2005  
54 Tract: 072600 Blocks: 1000-1010 1012-1018  
55 Tract: 073200 Blocks: 1002-1004 1006 2001-2005  
56 Tract: 090600 Block: 2004

S. 8196

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A. 9167

1 Tract: 091000 Blocks: 1000-1001 2000 3000  
2 Tract: 091600 Blocks: 1000-1002 2000-2003 3000-3001 4000-4002  
3 Tract: 091800 Blocks: 1000-1005 2001-2006  
4 Tract: 092000 Blocks: 1000 2000-2001 3002-3004  
5 Tract: 092800 Blocks: 1000 2000-2001  
6 Tract: 093000 Block: 1003  
7 Tract: 093400 Blocks: 1000-1004 2000-2001 2004  
8 Tract: 094401 Blocks: 1000-1001 2000-2001 2006 3000-3001  
9 Tract: 095000 Block: 2000  
10 § 2. Subdivision 10 of section 111 of the state law, as added by a  
11 chapter of the laws of 2022 amending the state law relating to creation  
12 of congressional districts, as proposed in legislative bill numbers S.  
13 8172-A and A. 9039-A, is amended to read as follows:  
14 10. Congressional District 10.  
15 Within Kings County  
16 Within Brooklyn Borough:  
17 Tract: 003700  
18 Tract: 005303  
19 Tract: 009402  
20 Tract: 010401  
21 Tract: 010402  
22 Tract: 010601  
23 Tract: 010602  
24 Tract: 010801  
25 Tract: 010802  
26 Tract: 011400  
27 Tract: 011600  
28 Tract: 011800  
29 Tract: 012801  
30 Tract: 013200  
31 Tract: 017100  
32 Tract: 017400  
33 Tract: 017600  
34 Tract: 017800  
35 Tract: 018000  
36 Tract: 018200  
37 Tract: 018400  
38 Tract: 018600  
39 Tract: 018800  
40 Tract: 019000  
41 Tract: 019200  
42 Tract: 019400  
43 Tract: 019600  
44 Tract: 019800  
45 Tract: 020000  
46 Tract: 020200  
47 Tract: 020400  
48 Tract: 020600  
49 Tract: 020800  
50 Tract: 021000  
51 Tract: 021200  
52 Tract: 021400  
53 Tract: 021600  
54 Tract: 021800  
55 Tract: 022000  
56 Tract: 022200



S. 8196

7

A. 9167

1 Tract: 022400  
2 Tract: 022600  
3 Tract: 022800  
4 Tract: 023000  
5 Tract: 023200  
6 Tract: 023400  
7 Tract: 023600  
8 Tract: 023800  
9 Tract: 024000  
10 Tract: 024200  
11 Tract: 024400  
12 Tract: 024800  
13 Tract: 025000  
14 Tract: 025200  
15 Tract: 026000  
16 Tract: 026200  
17 Tract: 026400  
18 Tract: 027400  
19 Tract: 027600  
20 Tract: 027800  
21 Tract: 028400  
22 Tract: 028800  
23 Tract: 029000  
24 Tract: 047000  
25 Tract: 047200  
26 Tract: 047400  
27 Tract: 047600  
28 Tract: 047800  
29 Tract: 048600  
30 Tract: 049800  
31 Tract: 050001  
32 Tract: 050002  
33 Tract: 050202  
34 Tract: 050401  
35 Tract: 050402  
36 Within New York County  
37 Within Manhattan Borough:  
38 Tract: 000100  
39 Tract: 001300  
40 Tract: 001501  
41 Tract: 001600  
42 Tract: 002100  
43 Tract: 002500  
44 Tract: 002700  
45 Tract: 002901  
46 Tract: 002902  
47 Tract: 003900  
48 Tract: 006900  
49 Tract: 007500  
50 Tract: 007900  
51 Tract: 009901  
52 Tract: 009902  
53 Tract: 009903  
54 Tract: 011700  
55 Tract: 012102  
56 Tract: 012901

1 Tract: 012902  
2 Tract: 013501  
3 Tract: 013502  
4 Tract: 014700  
5 Tract: 015101  
6 Tract: 015102  
7 Tract: 015302  
8 Tract: 015501  
9 Tract: 015502  
10 Tract: 015900  
11 Tract: 016300  
12 Tract: 016700  
13 Tract: 017100  
14 Tract: 017300  
15 Tract: 017500  
16 Tract: 017700  
17 Tract: 017900  
18 Tract: 018100  
19 Tract: 018300  
20 Tract: 018500  
21 Tract: 018700  
22 Tract: 019100  
23 Tract: 019500  
24 Tract: 019900  
25 Tract: 020101  
26 Tract: 020300  
27 Tract: 020500  
28 Tract: 020701  
29 Tract: 031703  
30 Tract: 031704  
31 Tract: 031900  
32 Within Kings County  
33 Within Brooklyn Borough:  
34 Tract: 000900 Blocks: 1004-1008 2000 2003-2004  
35 Tract: 001100 Blocks: 1004-1006 1011  
36 Tract: 005102 Blocks: 1011-1012 1015-1016  
37 Tract: 001801 Blocks: 0001-0002  
38 Tract: 001802 Block: 0001  
39 Tract: 003300 Blocks: 2005-2007  
40 Tract: 003900 Blocks: 1000-1003 2000 3000  
41 Tract: 004300 Blocks: 1000 2001 4000-4005  
42 Tract: 005301 Blocks: 0002 2000-2003 2005-2009 2014 2016-2018  
43 Tract: 005302 Blocks: 0002 0004 1000-1013 2002-2013 3001-3004  
44 Tract: 006500 Blocks: 3000 4000 5000 6000 6003 7000 7002-7006  
45 Tract: 006901 Blocks: 2000-2001  
46 Tract: 006902 Blocks: 2000-2002  
47 Tract: 007500 Blocks: 1003 2004 5000-5002  
48 Tract: 007700 Blocks: 3002-3006 3009-3012 4000-4003  
49 Tract: 009002 Block: 1001  
50 Tract: 009202 Blocks: 2000-2001  
51 Tract: 009401 Blocks: 1001 2000-2001  
52 Tract: 009800 Blocks: 3000-3001  
53 Tract: 010000 Blocks: 1000-1001 2000-2001  
54 Tract: 010200 Blocks: 1000-1002 2002  
55 Tract: 011000 Blocks: 1000-1002 1005-1007 2000-2001  
56 Tract: 011200 Blocks: 1001-1006 2000-2001 3000-3001 4001



S. 8196

9

A. 9167

1 Tract: 012000 Blocks: 1000-1005 1007-1012  
 2 Tract: 012901 Blocks: 1000-1001 2000-2001 4000-4001  
 3 Tract: 012902 Blocks: 2001-2006  
 4 Tract: 014000 Blocks: 1000-1001  
 5 Tract: 014800 Block: 1000  
 6 Tract: 015900 Blocks: [5000-5002] 5000-5003 5004 6000  
 7 Tract: 016100 Blocks: 1000-1003 3000-3001 4000-4001  
 8 Tract: 016300 Blocks: 2000-2002 3000-3001 4000  
 9 Tract: 016600 Blocks: 1000-1001 2000-2002  
 10 Tract: 016800 Blocks: 0001 1002-1005 1007-1009  
 11 Tract: 016900 Blocks: 1000-1001  
 12 Tract: 017000 Blocks: 1000-1002 2000-2001 3000  
 13 Tract: 017200 Blocks: 1000-1007 2000-2002 2004-2005  
 14 Tract: 017500 Block: 1001  
 15 Tract: 017700 Blocks: [1000-1012] 1001-1012 1014  
 16 Tract: 020300 Blocks: 1004-1005 2002  
 17 Tract: 020500 Blocks: 1002 2002 3002  
 18 Tract: 020700 Blocks: 2000-2002 3000-3001  
 19 Tract: 024600 Block: 2000  
 20 Tract: 025400 Blocks: 3000-3002  
 21 Tract: 025600 Blocks: 2000-2002  
 22 Tract: 025800 Blocks: 3000-3002  
 23 Tract: 026600 Blocks: 2000-2001 3000-3002  
 24 Tract: 026800 Blocks: 3000-3003  
 25 Tract: 027200 Blocks: 3001-3002  
 26 Tract: 028000 Blocks: 1000-1004 2000-2005  
 27 Tract: 028200 Blocks: 1000-1005 2000-2003 3000-3001  
 28 Tract: 028600 Blocks: 0002 1000-1003 2000 3000 4000-4002 5000-5002  
 29 Tract: 029200 Blocks: 1000-1002 2000-2003 3000-3003  
 30 Tract: 029400 Blocks: 1000-1008  
 31 Tract: 029600 Blocks: 1001-1002 2000-2002 3000-3002 4000-4001  
 32 Tract: 030000 Block: 1000  
 33 Tract: 030200 Blocks: 1000-1001 2000  
 34 Tract: 030400 Block: 2000  
 35 Tract: 046400 Blocks: 1000-1002 2000-2002  
 36 Tract: 046800 Blocks: 1000-1001  
 37 Tract: 048800 Blocks: 1001-1002 2001  
 38 Tract: 049600 Blocks: 1002-1004 2000-2002 3000-3004  
 39 Tract: 150200 Blocks: 1000-1004 2000-2006 3009-3012  
 40 Within New York County  
 41 Within Manhattan Borough:  
 42 Tract: 000500 Blocks: 0001-0004 1000-1031 2004-2006  
 43 Tract: 000600 Blocks: 1000-1002 2000-2001 2003  
 44 Tract: 000700 Blocks: 0001 1000-1005 2000 3000 4000-4004 5000-5001  
 45 6000-6002 7000-7008 8000-8002  
 46 Tract: 000800 Blocks: 1000-1001 2000 3000 4000 5000-5003 6000-6026  
 47 Tract: 000900 Blocks: 0001 1000-1023  
 48 Tract: 001502 Blocks: 0001 1000-1004 2000-2007 3000-3003 4000-4006  
 49 5000 6000-6001 7000-7002  
 50 Tract: 001800 Blocks: 1001-1004 5006 6000-6001  
 51 Tract: 003100 Blocks: 1001-1003 1011-1012 2000-2010  
 52 Tract: 003300 Blocks: 1007 1011-1012 2000-2003 2010 2013-2019  
 53 3002-3004  
 54 Tract: 003700 Blocks: 0001-0004 1000-1018 3009-3010 3014-3015  
 55 Tract: 004100 Blocks: 2000-2002 3000-3002 4000-4002 5000 5002-5005  
 56 Tract: 004500 Blocks: 1007 1009-1011



S. 8196

10

A. 9167

1 Tract: 004700 Block: 2010  
2 Tract: 008300 Blocks: 3000-3003  
3 Tract: 008900 Blocks: 3000-3001 4000-4001  
4 Tract: 009300 Blocks: 3000 4000 5000-5001 6000-6001 7000  
5 Tract: 009700 Blocks: 2000-2002  
6 Tract: 010300 Blocks: 1000-1011  
7 Tract: 011100 Blocks: 2000-2008 3000-3007  
8 Tract: 011500 Blocks: 2000-2008  
9 Tract: 012700 Blocks: 3000-3001 4000-4002  
10 Tract: 013300 Blocks: 3000-3001 4000-4001  
11 Tract: 013900 Blocks: 1000 2000 3000-3001  
12 Tract: 014300 Blocks: 1005-1007 1012-1014  
13 Tract: 014500 Blocks: 1000-1002 2000  
14 Tract: 014900 Blocks: 1000-1003  
15 Tract: 015700 Blocks: 5000 6000 7000-7001 8000-8001  
16 Tract: 016100 Blocks: 1000-1002 5000 6000  
17 Tract: 016500 Blocks: 2000 3000 4000 5000  
18 Tract: 016900 Blocks: 1000 3000-3001 4000-4001  
19 Tract: 019701 Blocks: 1001-1002

20 § 3. Subdivision 11 of section 111 of the state law, as added by a  
21 chapter of the laws of 2022 amending the state law relating to creation  
22 of congressional districts, as proposed in legislative bill numbers S.  
23 8172-A and A. 9039-A, is amended to read as follows:

24 11. Congressional District 11.

25 All of Richmond County

26 Within Kings County

27 Within Brooklyn Borough:

28 Tract: 000200

29 Tract: 001803

30 Tract: 001804

31 Tract: 002000

32 Tract: 002200

33 Tract: 003000

34 Tract: 003400

35 Tract: 003600

36 Tract: 003800

37 Tract: 004100

38 Tract: 004400

39 Tract: 004600

40 Tract: 005000

41 Tract: 005201

42 Tract: 005202

43 Tract: 005400

44 Tract: 005601

45 Tract: 005602

46 Tract: 005800

47 Tract: 006000

48 Tract: 006200

49 Tract: 006400

50 Tract: 006600

51 Tract: 006800

52 Tract: 007000

53 Tract: 007100

54 Tract: 007200

55 Tract: 007400

56 Tract: 007600

1 Tract: 007800  
2 Tract: 008000  
3 Tract: 008200  
4 Tract: 008400  
5 Tract: 008600  
6 Tract: 008800  
7 Tract: 009001  
8 Tract: 009201  
9 Tract: 009600  
10 Tract: 010100  
11 Tract: 011700  
12 Tract: 011901  
13 Tract: 011902  
14 Tract: 012100  
15 Tract: 012200  
16 Tract: 012600  
17 Tract: 012700  
18 Tract: 013000  
19 Tract: 013100  
20 Tract: 013300  
21 Tract: 013400  
22 Tract: 013500  
23 Tract: 013600  
24 Tract: 013700  
25 Tract: 013800  
26 Tract: 013900  
27 Tract: 014101  
28 Tract: 014102  
29 Tract: 014200  
30 Tract: 014300  
31 Tract: 014500  
32 Tract: 014700  
33 Tract: 014901  
34 Tract: 014902  
35 Tract: 015000  
36 Tract: 015100  
37 Tract: 015200  
38 Tract: 015300  
39 Tract: 015400  
40 Tract: 015500  
41 Tract: 015700  
42 Tract: 016000  
43 Tract: 016200  
44 Tract: 016400  
45 Tract: 016500  
46 Tract: 016700  
47 Tract: 001801 Blocks: 1000-1010 2000-2003  
48 Tract: 001802 Blocks: 1000-1011  
49 Tract: 003900 Blocks: 2001-2002 3001-3002  
50 Tract: 004300 Blocks: 2000 2002 3000-3003  
51 Tract: 005301 Block: 0001  
52 Tract: 005302 Blocks: 0001 0003  
53 Tract: 006901 Blocks: 1000-1001  
54 Tract: 006902 Blocks: 1000-1003  
55 Tract: 007500 Blocks: 1000-1002 2000-2003 3000-3006 4000-4001  
56 Tract: 007700 Blocks: 1000-1004 2000-2005 3000-3001 3007-3008 3013



S. 8196

12

A. 9167

1 Tract: 009002 Blocks: 1000 1002-1003  
2 Tract: 009202 Blocks: 1000-1001  
3 Tract: 009401 Block: 1000  
4 Tract: 009800 Blocks: 1000-1001 2000-2001 4000-4001  
5 Tract: 010000 Blocks: 3000-3001 4000-4001  
6 Tract: 010200 Blocks: 2000-2001 3000-3001  
7 Tract: 011000 Blocks: 1003-1004 2002-2003  
8 Tract: 011200 Blocks: 1000 4000  
9 Tract: 012000 Block: 1006  
10 Tract: 012901 Blocks: 3000-3002  
11 Tract: 012902 Blocks: 1000-1001  
12 Tract: 014000 Blocks: 1002-1003 2000-2007  
13 Tract: 014800 Blocks: 1001-1002 2000-2003  
14 Tract: 015900 Blocks: 1000-1002 2000-2002 3000-3001 4000-4001 [5003]  
15 6001-6004  
16 Tract: 016100 Blocks: 4002-4004  
17 Tract: 016600 Blocks: 1002-1006 2003-2006  
18 Tract: 016800 Blocks: 1000-1001 1006  
19 Tract: 016900 Blocks: 2000-2001 3000-3003 4000-4001 5000-5001  
20 Tract: 017000 Blocks: 2002-2003 3001-3003  
21 Tract: 017200 Block: 2003  
22 Tract: 017500 Block: 1000  
23 Tract: 028000 Block: 0001  
24 Tract: 028200 Block: 0001  
25 Tract: 028600 Block: 0001  
26 Tract: 029200 Block: 1000  
27 Tract: 029400 Block: 1000  
28 Tract: 030400 Block: 0002  
29 Tract: 150200 Blocks: 3000-3008  
30 Tract: 990100 Blocks: 0005-0008

31 § 4. This act shall take effect on the same date and in the same  
32 manner as a chapter of the laws of 2022 amending the state law relating  
33 to creation of congressional districts, as proposed in legislative bill  
34 numbers S. 8172-A and A. 9039-A, takes effect.



Affirmation of Steven B. Salcedo

# Exhibit A

1 STATE OF NEW YORK COUNTY OF STEUBEN

2 SUPREME COURT

3 -----X

4 TIM HARKENRIDER et al., : Index No.

5 Petitioners, : E2022-0116CV

6 -vs- :

7 :

8 GOVERNOR KATHY HOCHUL et al., :

9 Respondents. : Special Proceedings

10 ----- X

11 Hall of Justice

12 Bath, New York

13 March 3, 2022

14 BEFORE:

15 HON. PATRICK F MCALLISTER  
16 Acting Supreme Court Justice

17 APPEARANCES:

18 TROUTMAN PEPPER  
19 875 Third Avenue  
20 New York, New York 10022  
21 By: BENNET MOSKOWITZ, ESQ.  
22 MISHA TSEYTLIN, ESQ.  
23 Attorneys for Petitioners

24 KEYSER, MALONEY & WINNER, LLP  
25 150 Lake Street  
Elmira, New York 14901  
By: GEORGE H WINNER, ESQ.  
Attorney for Petitioner

STATE OF NY, OFFICE OF ATTORNEY GENERAL  
Rochester Region  
144 Exchange Boulevard  
Rochester, New York 14614  
By: MICHELE R CRAIN, ESQ.  
HEATHER MCKAY, ESQ.  
MUDITHA J HALLIYADDE, ESQ.  
Attorneys for Executive Respondents

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PHILLIPS LYTTLE LLP  
125 Main Street  
Buffalo, New York 14203  
By: CRAIG R BUCKI, ESQ.  
Attorney for Speaker Heastie

CUTI, HECKER, WANG LLP  
305 Broadway, Ste. 607  
New York, New York 10007  
By: JOHN R. CUTI, ESQ.  
ERIC HECKER, ESQ.  
ALEXANDER GOLDENBERG, ESQ.  
ALICE REITER, ESQ.  
Attorneys for Senate Majority Leader

REPORTED BY: LAURA BLISS POWER  
Official Court Reporter

*Harkenrider et al. - v - Governor Hochul et al.*

1 THE COURT: This is the matter of Tim  
 2 Harkenrider, et al. Versus Governor Kathy Hochul, et al.  
 3 Just a word before we start today, I see everybody has  
 4 got their mask on. Masks are still required in the state  
 09:31:41 5 courtrooms. When you move outside the courtroom, that's  
 6 the county and they don't have a mask requirement, but  
 7 when you're in here, all masks are required. The only  
 8 exception to that is if the attorneys are speaking at the  
 9 podium I'll allow them to take down their masks to speak.  
 09:32:03 10 I'm a little hard of hearing, I'm going to ask you all to  
 11 speak up, and we'll use the podium for argument. This is  
 12 being simulcast, and that way people will be able to see  
 13 you.

14 Let's find out who's here today. Do we have  
 09:32:20 15 any of the Petitioners here?

16 *(No indication.)*

17 THE COURT: Not present, but their attorneys  
 18 are. I'm going to ask the attorneys to put their  
 19 appearances on the record. We'll start with Petitioners.

09:32:38 20 MR. MOSKOWITZ: Bennet Moskowitz; Troutman  
 21 Pepper.

22 THE COURT: Thank you, Mr. Moskowitz.

23 MR. TSEYTLIN: Misha Tseytlin; Troutman,  
 24 Pepper.

09:32:47 25 THE COURT: Misha Tseytlin. Am I saying that

*Harkenrider et al. - v - Governor Hochul et al.*

1 correctly?

2 MR. TSEYTLIN: Yes, Your Honor.

3 MR. WINNER: George H Winner Junior,  
4 Petitioner.

09:32:56 5 THE COURT: Mr. Winner.

6 All right on behalf of Governor Kathy Hochul,  
7 attorneys?

8 MS. MCKAY: Heather McKay of The New York State  
9 Attorney General's Office.

09:33:06 10 THE COURT: Was that Heather McKay?

11 MS. MCKAY: Yes.

12 MS. CRANE: Michele Crane from the New York  
13 State Attorney General's Office.

14 THE COURT: What's the name again?

09:33:14 15 MS. CRANE: Michele Crane.

16 THE COURT: Michele Crane.

17 MS. HALLIYADDE: Muditha Halliyadde for  
18 Attorney General's Office.

19 THE COURT: I'm sorry?

09:33:28 20 MS. HALLIYADDE: Muditha Halliyadde.

21 THE COURT: Thank you.

22 On behalf of the Senate Majority Leader?

23 MR. HECKER: Eric Hecker from Cuti, Hecker,  
24 Wang.

09:33:42 25 THE COURT: Eric Hecker?

*Harkenrider et al. - v - Governor Hochul et al.*

1 MR. HECKER: Yes.

2 MR. CUTI: John Cuti from Cuti, Hecker, Wang.

3 THE COURT: John, what's the last name?

4 MR. CUTI: Cuti.

09:33:54 5 MR. GOLDENBERG: Alexander Goldenberg for Cuti,  
6 Hecker, Wang.

7 MS. REITER: And Alice Reiter from --

8 THE COURT: Alex Reiter?

9 MS. REITER: Alice Reiter.

09:34:14 10 THE COURT: Alice Reiter.

11 Are the same attorneys here on behalf of the  
12 Speaker of the Assembly?

13 MR. BUCKI: No, Your Honor, I'm here on behalf  
14 of Speaker Heastie. My name is Craig Bucki, last name  
09:34:24 15 spelled, B-U-C-K-I from The Law Firm of Phillips Lyte in  
16 Buffalo.

17 THE COURT: Thank you, Mr. Bucki.

18 Anyone else here on behalf of the Speaker of  
19 the Assembly?

09:34:36 20 MR. BUCKI: No.

21 THE COURT: Is there anyone here on behalf of  
22 The New York State Board of Elections? Is there anyone  
23 here on behalf of the New York State Legislative Task  
24 Force on Demographic Research and Reapportionment?

09:34:52 25 MR. HECKER: Your Honor, each house of the

*Harkenrider et al. - v - Governor Hochul et al.*

1 legislature has two appointees to Lot 4, so collectively  
2 the attorneys for the Senate Majority Leader and the  
3 Assembly Speaker effectively represent Lot 4.

4 THE COURT: Very good, thank you.

09:35:11 5 We have several matters on this morning. We're  
6 going to start with the motion to dismiss brought by the  
7 Governor and Lieutenant Governor. Which attorney for the  
8 Governor/Lieutenant Governor would like to present that?

9 MS. MCKAY: Heather McKay, Your Honor.

09:35:32 10 THE COURT: Okay, Ms. McKay, please proceed.

11 MS. MCKAY: Good morning, Your Honor.

12 THE COURT: Good morning.

13 MS. MCKAY: I don't want to -- there's been  
14 extensive briefing on our motion to dismiss. I don't  
09:35:50 15 want to belabor the points. I'm sure that Your Honor is  
16 familiar with our arguments as detailed in those papers.  
17 I want to touch on a couple of highlighting points here,  
18 and I'm happy to answer any questions that Your Honor may  
19 have. First, I want to discuss the jurisdictional defect  
09:36:10 20 that we've raised in our papers. The retroactive service  
21 attempts do not in fact cure the jurisdictional defect,  
22 and I believe our papers make abundantly clear that no  
23 email service occurred, nor was it actually agreed to by  
24 the Governor and Lieutenant Governor --

09:36:33 25 THE COURT: But they did receive notice, did

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1 they not?

2 MS. MCKAY: Notice -- we certainly are able --  
3 we're able to access the papers, those are publicly filed  
4 documents. So to the extent that we can access NYSEF, we  
09:36:46 5 certainly have access to it. However these rules are in  
6 place for very important reasons, and that's how the  
7 Court obtains jurisdiction over the Respondents and with  
8 respect to any discussion of waiver, the docket makes  
9 abundantly clear that the Executive Respondents did not  
09:37:05 10 appear until the time of our filed motion in which  
11 obviously we were raising the issue. With respect to the  
12 Lieutenant Governor it appears the Petitioners have  
13 abandoned any purported claim against him by failing to  
14 address that in their opposition papers to our motion.  
09:37:27 15 With respect to the Governor herself there's still no  
16 competent evidence. Our memo of law cites extensive  
17 cases that establish that in a proceeding such as this, a  
18 special proceeding, the Petitioners have a burden of  
19 providing competent proof, and here there's absolutely no  
09:37:50 20 proof whatsoever with respect to Governor Hochul's  
21 involvement.

22 THE COURT: But, Ms. McKay, doesn't the law  
23 require the Governor and the Lieutenant Governor to be  
24 served in this type of matter?

09:38:01 25 MS. MCKAY: Yes, absolutely.

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1 THE COURT: How do I let them out? They're  
2 necessary parties, aren't they?

3 MS. MCKAY: Well, I don't believe that's what  
4 Unconsolidated Laws 4221 says. That provision is  
09:38:11 5 indicating that service need to be made on them, amongst  
6 many others, and not all of those entities are named in  
7 this action because that provision does not pertain to --  
8 it doesn't establish a basis for bringing a legal claim  
9 against any of them individually. And here there's  
09:38:34 10 nowhere -- there's no allegations as to her involvement  
11 in the actual drawing of redistricting lines.

12 THE COURT: She had to approve it.

13 MS. MCKAY: Sure.

14 THE COURT: Correct?

09:38:43 15 MS. MCKAY: Absolutely. The Governor pursuant  
16 to the Constitution does play a role the same way that  
17 she does with any legislative act that she signed it into  
18 law, and she certainly did. So here however what we're  
19 left with then is a quasi-legislative act that's entitled  
09:39:04 20 to absolute legislative immunity. So that's why she  
21 should be released from this case. The first cause of  
22 action fails as a matter of law the attempts at having  
23 the -- that the IRC needs to take the first and second  
24 attempts at creating a plan. The fact that that shall be  
09:39:29 25 the redistricting process does not automatically equate

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1 to failure of the IRC agreeing, then transforms what is a  
 2 fundamental legislative function and always has been into  
 3 a -- frankly a judicial one. The legislature -- that the  
 4 legislature has the authority to draw the maps is  
 09:39:51 5 absolutely clear and unambiguous even after the 2014  
 6 amendments and even if there were an ambiguity in the  
 7 constitutional provisions, including the 2014 amendments,  
 8 Petitioners' suggested interpretation of intent behind  
 9 the 2014 amendment to take that quintessential  
 09:40:14 10 legislative function and remove it entirely leads to  
 11 absurd results. Certainly the 2021 legislation is  
 12 permissible because it doesn't contradict anything in the  
 13 2014 amendment. So obviously all these arguments are  
 14 very intertwined. If you buy into the concept that  
 09:40:39 15 Petitioners are advocating here that the legislature in  
 16 first proposing the 2014 amendments and then the people  
 17 in approving them -- if you buy into the concept that  
 18 that meant that the legislature no longer has the  
 19 authority, and that the IRC can essentially hold everyone  
 09:41:01 20 hostage, at which point it has to be now drawn by a  
 21 Court, then you're necessarily going to find that the  
 22 2021 legislation did not fill in a gap that's there. So  
 23 these things really rise and fall together.

24 THE COURT: Did the 2021 legislation pass  
 09:41:22 25 basically what was proposed and voted down in the

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1 constitutional amendment?

2 MS. MCKAY: Well I'm glad Your Honor asked  
3 about that because the arguments that Petitioner's make  
4 on this are -- they're borderline misleading. First, the  
09:41:39 5 2021 legislation was fully approved by both houses of the  
6 legislature in June of 2021, so that predates the failure  
7 of Ballot Proposal 1. In addition to that, while Ballot  
8 Proposal 1 did contain language that clarified this issue  
9 of an IRC stalemate, it was only one tiny part of that  
09:42:05 10 overall ballot proposal which is why I've included the  
11 ballot proposal in our papers from the Board of  
12 Elections' public website which shows that there were  
13 numerous matters in that proposed ballot initiative that  
14 would absolutely have required constitutional amendment.  
09:42:25 15 Changing quorum requirements, changing timing, those are  
16 things that would truly have changed the terms in the  
17 2014 amendments, and therefore did absolutely need a  
18 constitutional amendment approved by the voters. This  
19 aspect of the IRC stalemate, which essentially just  
09:42:45 20 clarified what was already the process, was not something  
21 that actually needed to be in a constitutional amendment,  
22 it would be great if it was, but it could be accomplished  
23 by legislation.

24 Finally, as to the second and third causes of  
09:43:05 25 action, the Governor doesn't have an expansive amount of

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1 arguments to present in that, other than indicating that  
 2 Petitioners really have not satisfied their extremely  
 3 high burden of demonstrating a con -- that the maps are  
 4 unconstitutional beyond a reasonable doubt. Given the  
 09:43:28 5 Governor's extremely minimal role -- excuse me -- in just  
 6 merely signing the maps, we are not prepared -- excuse me  
 7 one moment.

8 THE COURT: You're fine.

9 MS. MCKAY: We would primarily rely on the  
 09:43:48 10 arguments of our Co-Respondents in terms of the  
 11 substantive maps as they've been drawn.

12 And finally, as to the motions to amend, I'm  
 13 happy to address those now. We have very minimal --  
 14 primarily we would rely on our papers. Again these were  
 09:44:02 15 extensively briefed, and unless Your Honor has any  
 16 questions for us --

17 THE COURT: In regards -- I'd like to go back  
 18 to the legislative immunity. I mean, isn't that really  
 19 qualified immunity under the Pataki and Cuomo cases?

09:44:21 20 MS. MCKAY: No. It is right conferred under  
 21 the Constitution in New York State, and it's not -- it  
 22 is -- in fact the cases that we've cited do indicate that  
 23 it is an absolute right with respect to the -- especially  
 24 the particular tasks that are alleged here by Governor  
 09:44:40 25 Hochul. Just in terms of signing, it's very limited, the

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1 actual factual allegations against her, and given that  
 2 very limited nature this can be a basis for dismissal,  
 3 not just obviously a basis for opposing discovery  
 4 requests and all of that, which here you couldn't  
 09:45:01 5 envision much more broad discovery demands than we have  
 6 here. But that's why that's included in our motion is  
 7 because given the limited nature of the factual  
 8 allegations against the Governor, those are absolute  
 9 immunity she's entitled to under the cases that we've  
 09:45:18 10 provided.

11 THE COURT: Thank you.

12 MS. MCKAY: Thank you, Your Honor.

13 THE COURT: I may call you back up, Ms. McKay,  
 14 on the motion to amend. We'll deal with that separately.

09:45:27 15 MS. MCKAY: Okay, thank you.

16 THE COURT: Who'd like to answer this on behalf  
 17 of the Petitioners?

18 MR. TSEYTLIN: Thank you, Your Honor.

19 Misha Tseytlin on behalf of the Petitioners.

09:45:43 20 First, briefly on the service issue. As we  
 21 pointed out in our papers, service of a petition is  
 22 governed by CPLR 403 not 2214, that was reflected in this  
 23 Court's order to show cause, which directed us to serve  
 24 in the manner of a summons, that's docket 18 -- docket  
 09:46:05 25 11. We followed that to a T. To the extent my friends

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1 wanted the papers at the Rochester office for some reason  
 2 we did serve them their as a courtesy. They received  
 3 services in their reply brief filed last night. Their  
 4 only objection to that was while they claimed that that  
 09:46:23 5 was violative of this Court's order to show cause, the  
 6 initiating one, again that's docket 11, that orders us to  
 7 deliver the -- to serve it consistent with a summons, not  
 8 under 2214. So the issue is not only frivolous, but it's  
 9 also moot. Further, Counsel for the Governor did in fact  
 09:46:45 10 waive this entire issue by participating in the court  
 11 ordered meet and conferral process. I think almost  
 12 every --

13 THE COURT: Didn't they bring a motion to  
 14 dismiss? Isn't that -- the motion to dismiss for lack of  
 09:46:55 15 jurisdiction and proper service right off the bat cover  
 16 that?

17 MR. TSEYTLIN: They participated in that  
 18 conference before they filed that. I think almost every  
 19 attorney here was on that call. Counsel for the Governor  
 09:47:08 20 participated and quite aggressively making multiple  
 21 points that a conferral occurred consistent, and by the  
 22 direction of this Courts on its order to show cause.  
 23 Finally under the controlling O'Brien case any defect  
 24 here is a technical defect under CPLR 2001 and so there  
 09:47:33 25 is no jurisdictional defect at all with regard to

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1 O'Brien. The service there wasn't made at all on the  
 2 Governor at all, not to the claim drawing office. And  
 3 yet the fourth division said that because that case --  
 4 the Board of Elections was represented, there was no  
 09:47:54 5 prejudice, no substantial rights were violated under  
 6 2001. Here of course the Board of Elections represented  
 7 by separate counsel, all the legislative respondents  
 8 represented by separate counsel, Governor's counsel  
 9 appearing here, no prejudice. So if there was some sort  
 09:48:12 10 of error, which absolutely clearly there wasn't, it would  
 11 be just a technical issue that is not jurisdictional at  
 12 all under 2001. Unless Your Honor has any questions  
 13 about that I would move on to the other points.

14 THE COURT: Go ahead.

09:48:29 15 MR. TSEYTLIN: With regard to the Governor as a  
 16 Defendant -- and the only thing I would add to Your  
 17 Honor's question is the Governor has been a Respondent or  
 18 a Defendant in virtually every single redistricting  
 19 challenge in the state's history, that's because not only  
 09:48:42 20 does the Governor sign the maps, the Governor also is  
 21 above the Board of Elections, which needs to administer  
 22 the elections. Now of course I agree with my friends  
 23 that because we did in fact name the Board of Elections,  
 24 if the Governor was dismissed including on this by  
 09:49:00 25 submission -- frivolous service issue, the case could

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1 fully go on and we could have binding injunction  
2 prohibiting the Board of Election represented by separate  
3 counsel from administering the elections on any of these  
4 unconstitutional maps.

09:49:14

5 THE COURT: Doesn't there have to be some  
6 allegations against the Governor and Lieutenant Governor  
7 to hold it in there?

8 MR. TSEYTLIN: First of all, we do have an  
9 allegation against the Governor that she promised to do  
10 the very egregious gerrymandering that occurred.

09:49:25

11 THE COURT: Which they say was taken out of  
12 context.

13 MR. TSEYTLIN: I leave it to Your Honor to lead  
14 that article and see if that is a credible articulation  
15 of what she said. But in any event, for example, the  
16 Board of Elections, we don't have any allegation that  
17 they did anything wrong, but there's no gainsaying that  
18 they can be named as a respondent here because we need  
19 them here to obtain effective relief. We are seeking an  
20 injunction against administering elections under  
21 unconstitutional maps. So the Board of Elections is a  
22 proper Respondent because we need them for full relief,  
23 they're a necessary party. The Governor is in this case  
24 for the same reason. Now, again, because we did name the  
25 Board of Elections, the Governor is not an essential

09:49:51

09:50:10

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1 party, but it is entirely appropriate to name the  
2 Governor because she oversees the Board of Elections, and  
3 an injunction stopping elections from happening under  
4 these unconstitutional maps should certainly bind both  
09:50:28 5 the Board of elections and the Governor.

6 Now moving on to the procedural argument and  
7 the substantive argument. I don't know to the extent  
8 that Your Honor would like me to fully opine on why we  
9 think we are not only -- defeat their motion to dismiss,  
09:50:44 10 but in fact on the papers before Your Honor, Your Honor  
11 should with respect today enter a judgment in our favor  
12 and injunction in our favor on the procedural argument.

13 Now --

14 THE COURT: Well Ms. McKay covered it somewhat.  
09:50:57 15 So you can respond.

16 MR. TSEYTLIN: Okay the text of the  
17 Constitution is clear and my friends don't engage with it  
18 at all. It says that the process shall govern  
19 redistricting. The process involves two rounds of maps  
09:51:12 20 coming out from the IRC and the legislature voting on it,  
21 only thereafter does the legislature get to enact a map.

22 THE COURT: It's not a complete process, is it?  
23 It's part of the process?

24 MR. TSEYTLIN: The process, there's definite --

09:51:27 25 THE COURT: That's in the Constitution, but --

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1 MR. TSEYTLIN: Right.

2 THE COURT: But it is not the complete process,  
3 is it?

4 MR. TSEYTLIN: The --

09:51:35 5 THE COURT: It still takes the Governor and the  
6 legislature to pass it.

7 MR. TSEYTLIN: Your Honor, that's also in the  
8 Constitution.

9 THE COURT: That is.

09:51:43 10 MR. TSEYTLIN: And the problem for them is the  
11 process wasn't followed. They don't engage with that  
12 cautious language. To the extent I think I understand  
13 the argument -- it's hard to follow -- is what they're  
14 saying is if that process isn't followed, we get to  
09:52:00 15 default to a different process, the process used before  
16 2014, but that's not what the Constitution says. The  
17 Constitution could have said if this process doesn't work  
18 then go to the pre-2014 process, that is not what it  
19 says. In fact, what the Constitution says -- I'll read  
09:52:20 20 this language, it's very short and I think it settles  
21 this issue and it's so straight forward that I think both  
22 Congressional and Senate maps should be struck down to  
23 short order. Quote, "The process for redistricting  
24 congressional and state legislatures shall be established  
09:52:42 25 by this section and section 5, and it shall govern

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1 redistricting in the state except to the extent that a  
2 court is required to order the adoption or changes to a  
3 redistricting plan as a remedy". So what does that mean?  
4 There is one exclusive process. The process there is one  
09:53:00 5 and only one exception when courts order a fix. There is  
6 no off-ramp for a different process, if the IRC doesn't  
7 pass the map such that the legislature can't enact any  
8 maps. The legislature understood this, which is why they  
9 attempted to put this ballot measure before the People.  
09:53:23 10 I heard my friend for the Governor say, well there were  
11 other provisions in that, fair enough, but why do they  
12 put that provision in there before the People --

13 THE COURT: But is your argument that the  
14 Commission absolutely has to send a first set of maps?  
09:53:39 15 If they're turned down they have to submit a second set  
16 of maps? Is that the argument?

17 MR. TSEYTLIN: That's exactly --

18 THE COURT: That's the procedural argument.

19 MR. TSEYTLIN: That's exactly --

09:53:47 20 THE COURT: What if in good faith they can't  
21 come to an agreement on that? We don't have an election?

22 MR. TSEYTLIN: That's right, Your Honor. That  
23 it could be the same as if the Governor and the  
24 legislature couldn't agree on a map. You know if --  
09:54:02 25 let's say you had -- in good faith the Assembly can't

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1 agree to a replacement map with the Senate or the  
 2 Governor, that happened in the last cycle, in the 2012  
 3 cycle with regard to the Congressional maps. So what  
 4 happens then? The old map still governs, if the old map  
 09:54:18 5 is still constitutional. Let's say there weren't any  
 6 population changes, you can hold an election under the  
 7 old map. If the old map is now unconstitutional because  
 8 it's mal apportioned then it becomes the duty of the  
 9 courts to correct this. This is not unusual. Again,  
 09:54:32 10 when the mandatory constitutional process for enacting a  
 11 new map fails and the old map is unconstitutional, the  
 12 courts always step in. But again, the old map is still  
 13 the law of the lands, the one that was enacted in 2012.  
 14 And an election can be held under that map unless someone  
 09:54:52 15 challenged that map in court. We have challenged those  
 16 maps in court.

17 THE COURT: I see that.

18 MR. TSEYTLIN: So both the 2012 map is  
 19 unconstitutional because it's mal apportioned and the  
 09:55:02 20 2022 map is unconstitutional because they didn't follow  
 21 the exclusive process in the same way as if they can't --  
 22 under the old system if they didn't follow the process of  
 23 getting by cameralism of presentment. It's just an ultra  
 24 vires act, and it becomes the duty of the courts to enjoy  
 09:55:20 25 any actions under that act, and then a court will need to

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1 adopt a remedial map. In -- and the reason the Court  
2 needs to adopt a remedial map is because the Constitution  
3 provides the legislature with the opportunity to -- a  
4 reasonable opportunity to fix any errors. But when the  
09:55:35 5 error is procedural, there's no way that error can be  
6 fixed. It would be as if the legislature -- only one  
7 house of the legislature passed a new map. That before  
8 2014 was the exclusive process for enacting redistricting  
9 legislation. One house didn't pass it or two houses  
09:55:53 10 passed it, but the Governor vetoed, that was an ultra  
11 vires law. In the same way if the commission does not do  
12 a necessary step in the exclusive redistricting process,  
13 the output is an ultra vires act, which is not the law of  
14 the lands. The law of the lands currently is the 2012  
09:56:13 15 maps, but again we have challenged those as  
16 unconstitutional, and my friends have not argued to the  
17 contrary, they have conceded by silence that those maps  
18 are now unconstitutional even though they were  
19 constitutional when a federal court adopted the 2012  
09:56:28 20 congressional map and a legislature with the Governor's  
21 signature adopted the Senate map.

22 THE COURT: Are you claiming that the 2021  
23 legislation is unconstitutional?

24 MR. TSEYTLIN: It is absolutely  
09:56:39 25 unconstitutional. We put that in our briefs and we put

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1 that in our petition. The reason for that is it attempts  
 2 to create an additional process. Again the Constitution  
 3 provided that there's only a single process for adopting  
 4 replacement redistricting maps, and it provides only one  
 09:56:56 5 exception, a textural exception where a court can order  
 6 some change. What they attempted to do with Section 633  
 7 was create an additional process, and again I will  
 8 emphasize, they knew that this couldn't be done without  
 9 constitutional amendment which is why they also passed  
 09:57:17 10 the constitutional amendment and put it before the People  
 11 because they knew they were changing the process, the  
 12 process that was exclusive in the Constitution. Now of  
 13 course if the constitutional amendment had passed, then  
 14 the legislation -- then it would be under a different  
 09:57:31 15 constitutional footing. There's all kind of legislation  
 16 that's passed that reenforce constitutional amendments.  
 17 In fact they have legislation that codifies the 2014  
 18 process. But upon -- but because the People rejected  
 19 that amendment resoundingly, the legislation that they  
 09:57:52 20 drafted in view of that amendment is unconstitutional.

21 THE COURT: Anything further?

22 MR. TSEYTLIN: I do have obviously extensive  
 23 arguments on the substantive aspect of our challenge.  
 24 However, Counsel for the Governor only addressed that  
 09:58:07 25 briefly, so perhaps I'll reserve that until --

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1 THE COURT: How about legislative immunity or  
2 qualified immunity?

3 MR. TSEYTLIN: Your Honor, do you mean with  
4 regard to the Governor being a Defendant or with regard  
09:58:19 5 to discovery?

6 THE COURT: Well, both.

7 MR. TSEYTLIN: With regard to the Governor  
8 being a Defendant, again we have explained -- and I've  
9 explained this morning that the Governor is a Defendant  
09:58:33 10 in large part for the same reason the Board of Elections  
11 is a Governor -- is an enforcer of the elections in the  
12 state. Again, the Board of Elections is the primary  
13 enforcer, but the Governor, she sits above the Board of  
14 Elections and there's no legislative immunity to not be  
09:58:49 15 enjoyed, not to enforce unconstitutional law. The  
16 Governor is sued all the time. There was a pretty big  
17 case maybe about a year ago where Governor Cuomo was sued  
18 to not enforce certain restrictions on places of worship.  
19 You know, he was sued because he would have been  
09:59:07 20 enforcing those restrictions. This kind of thing  
21 happened all the time. Now with regard to legislative  
22 privilege, as Your Honor pointed out, that's a qualified  
23 privilege. What we're seeking here is the -- and we've  
24 quoted case law from New York that says that the New York  
09:59:25 25 Speech and Debate Clause is parallel to the Federal

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1 Speech and Debate Clause. We now have many years of  
 2 experience with the federal courts treatment of  
 3 legislative immunity in the partisan gerrymandering  
 4 context. What the Federal courts have said is this is a  
 09:59:41 5 qualified privilege and there's five factors that need to  
 6 be determined whether to set aside. Those factors are  
 7 readily satisfied in partisan redistricting cases,  
 8 because a significant portion of the evidence of a  
 9 partisan gerrymandering -- of gerrymandering purpose is  
 10:00:00 10 exclusively in the hands of the legislature or the  
 11 Governor, and the need for it is great. The issues are  
 12 very serious and because partisan gerrymandering is  
 13 unconstitutional, it wouldn't have any sort of chilling  
 14 affect. So the New York Speech and Debate Clause is  
 10:00:17 15 parallel to the Federal one, and all the Federal cases  
 16 that have been cited to Your Honor apply this five factor  
 17 test, only thing we're asking is for the very standard  
 18 form of discovery that's always given to Plaintiffs in  
 19 partisan gerrymandering cases here -- Petitioners, things  
 10:00:34 20 like did they look at political data which could be  
 21 unconstitutional, did they speak --

22 THE COURT: I won't have you get into the  
 23 discovery because we'll cover that soon.

24 MR. TSEYTLIN: Yes, Your Honor. So that's the  
 10:00:45 25 extent of what I'll say on that.

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1 THE COURT: All right, thank you.

2 MR. TSEYTLIN: Thank you.

3 THE COURT: With regard to the Governor and

4 Lieutenant Governor's motion to dismiss for lack of

10:00:59 5 proper service and not mentioning anything in the

6 paperwork, there's some -- as regards to Governor,

7 nothing that I saw as regards to Lieutenant Governor.

8 I'm still denying the motion for the following reasons.

9 The New York Unconsolidated Law Section 4221 requires

10:01:17 10 service of the petition on the Governor and the

11 Lieutenant Governor. I believe they're necessary

12 parties. CPLR 403 is controlling, it doesn't specify

13 service upon the nearest office of the Attorney General,

14 and while CPLR 2214 does refer to services of an order to

10:01:38 15 show cause upon the nearest Attorney General's office,

16 that is specifically in reference to motions and not the

17 commencement of an action which we have here. In

18 addition, the Governor and Lieutenant Governor admit they

19 received notice, and I've heard no argument that anyone

10:01:56 20 was prejudiced by it. So that's my ruling on that

21 motion.

22 And that's going to move us to the Petitioner's

23 order to show cause to add the New York Senate

24 redistricting to the action. Who will be arguing that on

10:02:16 25 behalf of the Petitioner? Mr. Tseytlin?

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1 MR. TSEYTLIN: Yes, Your Honor. I'm going to  
 2 be very brief on this. Leave to amend is freely granted,  
 3 there's really two considerations, one; whether it would  
 4 basically be so insubstantial as to be dismissed. I've  
 10:02:40 5 already explained why our procedural argument is not only  
 6 substantial, but sure to win. We also have a substantive  
 7 argument and the procedural argument applies to the same  
 8 extent to the Congressional and Senate, they use the same  
 9 procedure.

10:02:58 10 With regard to the substantive arguments we  
 11 haven't developed those this morning, but Your Honor can  
 12 see in the papers that the process that was used was  
 13 justice partisan, which is a major consideration in  
 14 substantive partisan gerrymandering allegations and our  
 10:03:15 15 experts methodology which is wildly accepted by courts  
 16 around the country including most recently by the Ohio  
 17 Supreme Court showing that the senate map was more  
 18 pro-democrat than 5,000 computer generated maps, is  
 19 powerful evidence of substantive gerrymandering. We also  
 10:03:33 20 have an expert based specific discussion about specific  
 21 senate districts that were gerrymandered to favor the  
 22 Democrats. So we can discuss those things in more  
 23 detail, but that certainly survives that low barrier for  
 24 it's so insubstantially dismissed.

10:03:49 25 The only other inquiry on the motion on an

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1 amendment is prejudice. There's clearly no prejudice  
2 here. We filed our initial petition within a couple of  
3 hours of the Governor signing the maps. We filed the  
4 motion to amend, I think three business days later. The  
10:04:08 5 reason we did that is during the legislative process they  
6 revealed the Congressional map first, so we had more time  
7 to analyze it. The Senate map didn't get put out to the  
8 world until a little bit later, so we needed more time to  
9 look at it. There was absolutely no prejudice to anyone  
10:04:27 10 by the way that we did this.

11 THE COURT: Are you saying the Senate map came  
12 out after the Congressional maps?

13 MR. TSEYTLIN: Yes, it came out to the world.  
14 They were signed together, but it came out to the world  
10:04:38 15 later. And given the complexity of how many districts  
16 there are, we needed a couple more days to analyze.  
17 There was absolutely no prejudice. The procedural  
18 arguments are entirely identical, so there's no -- you  
19 know, those rise and fall together. With regard to the  
10:04:52 20 substantive arguments, you know, we have the Trende  
21 Report which applies the same methodology to both. They  
22 presumably have the same critique of the Trende Report  
23 with regard to the Senate and the Congressional. In  
24 fact, in their opposition to leave to amend, they just  
10:05:13 25 repurposed our expert criticism of the Trende approach to

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1 the Senate map.

2 So now -- and then the only other aspect is the  
3 discussion of the specific Senate districts. They chose  
4 not to put anything in writing responding to that, but I  
10:05:31 5 will note that even when they contemplated[sic] to contest  
6 the specific congressional districts, they didn't put in  
7 any competent evidence to rebut our showing. They put in  
8 an expert report from this Harvard professor from  
9 Mesiti[sic], looks like he may have never been to the  
10:05:48 10 State of New York, let alone certainly had no expertise  
11 in New York to be able to talk about New York's district.  
12 So even if they had responded to the Senate specific  
13 districts, they presumably would have put in the same  
14 expert who has no ability to testify on New York  
10:06:06 15 communities of interest and that sort.

16 In any event the Court can strike down the  
17 Senate districts today on the procedural arguments and  
18 during remedial process they can be given the opportunity  
19 to make any supplemental submission to the substantive  
10:06:21 20 challenges to the Senate districts which would permit  
21 this whole case to wrap up within the 60-day window that  
22 the Constitution provides.

23 THE COURT: Thank you.

24 On behalf of the Governor?

10:06:36 25 MS. CRANE: Good morning, Your Honor.

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1 THE COURT: Good morning.

2 MS. CRANE: I'm Michele Crane from the Attorney  
3 General's Office, Your Honor. The jurisdictional  
4 argument which we raised with regard to the motion to  
5 dismiss was also raised with respect to this motion to --  
6 for leave to amend, the petition and given the fact that  
7 this is a motion and that they made a motion to amend  
8 their original pleading, then we would say that the CPLR  
9 provision 2214 does apply here, and therefore they do not  
10 have jurisdiction over the Governor or Lieutenant  
11 Governor. I know you've already discussed this in  
12 detail, and I think you're familiar with the arguments,  
13 so I just want to make the distinction here with respect  
14 to that issue. We also raised in this motion or our  
15 opposition to the motion to amend the legislative  
16 immunity and non-justiciability arguments, we'd like to  
17 reiterate those to the Court. I think the Court is  
18 familiar with those and lastly, Your Honor, we do believe  
19 that allowing this amendment to occur would significantly  
20 interfere with the election cycle and in the declaration  
21 of Mr. Brown from our office, he specifically sets forth  
22 the dates upon which everything needs to be accomplished,  
23 and I would really ask the Court to look at those dates.

24 THE COURT: I did.

25 MS. CRANE: And to consider the impact that

10:06:50

10:07:09

10:07:23

10:07:40

10:07:54

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1 this amendment may have. The Attorney General's Office  
2 on behalf of the Governor and Lieutenant Governor have  
3 not responded or answered the petition yet. We would  
4 need time to do that. If the Court allows discovery  
5 there would be a --

10:08:06

6 THE COURT: You've had it for 20 days or so,  
7 haven't you?

8 MS. CRANE: Well, we still need to put --

9 THE COURT: I understand.

10:08:13

10 MS. CRANE: It needs to be approved by Counsel  
11 and the Governor's office before we submit, Your Honor,  
12 we didn't really have this. There's a dispute about how  
13 this was served obviously, and our office was not  
14 assigned to represent the Governor and Lieutenant  
15 Governor until fairly late in the game. Our focus was on  
16 the papers that are before you today. We have not spent  
17 the time answering the petition, so we will need time to  
18 accomplish that.

10:08:27

19 THE COURT: The amended petition?

10:08:42

20 MS. CRANE: Yes, the amended petition. And so  
21 that will need to be done. If the Court allows  
22 discovery, that will need to be done, and all of this  
23 now -- these cases are in jeopardy for this election  
24 cycle to occur. So based on that, we would ask the Court  
25 to deny the motion to amend the petition.

10:08:57

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1 THE COURT: Thank you, Ms. Crane.

2 MS. CRANE: Thank you.

3 THE COURT: On behalf of the Senate Majority

4 Leader will you be speaking on behalf of the Senate

10:09:08 5 Majority Leader and Senate Minority Leader there?

6 MR. HECKER: Assembly Speaker

7 there(indicating), Senate Majority Leader.

8 THE COURT: Very good.

9 MR. HECKER: Good morning, Your Honor, Eric

10:09:20 10 Hecker from Cuti, Hecker, Wang for the Senate Majority

11 Leader. I'll be very brief because I expect our

12 discussion to be extensive when we get to the petition

13 itself.

14 As we said in our papers we acknowledge

10:09:33 15 generally speaking that leave to amend is granted

16 liberally in a usual case. This is an unusual case for

17 three reasons. First of all, they've put in expert

18 testimony that fatally undermines their theory.

19 Mr. Trende has shown unmistakably and unequivocally that

10:09:53 20 in literally every single one of his thousands of

21 simulations, there are more Republican majority districts

22 in the Senate plan than in the enacted Senate plan --

23 THE COURT: He disputes that in the reply

24 though, doesn't he?

10:10:08 25 MR. HECKER: He doesn't actually. We can get

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1 into all that. I would respectfully suggest when we get  
2 into the petition, but suffice it to say, we have that  
3 futility argument.

4 Also as the Attorney General's Office is  
10:10:20 5 arguing, we have a significant time problem. There is no  
6 amended petition. Your Honor, we've been working very  
7 hard on this case, we haven't taken days off in weeks,  
8 it's taken everything we have to rebut the evidence both  
9 statistically and also in terms of actually how the lines  
10:10:40 10 were drawn. And if we have to go back and amend the  
11 answer, the amended petition -- which we certainly will  
12 if we're directed to, it's going to take time. And then  
13 beyond that, as the Attorney General also emphasized, the  
14 election season is already underway. The designating  
10:10:56 15 petition period started two days ago. It would sew  
16 confusion in the extreme for this Court to enjoin  
17 anything, which is why in almost every case where there's  
18 ever been a really bona fide argument of  
19 unconstitutionality at this stage of the process, you  
10:11:18 20 stick with what you've got, and you address whatever  
21 arguments there are for the next cycle. So for those  
22 three reasons, we think there's no reason to grant the  
23 amended petition, and I look forward to addressing the  
24 merits of the petition when we get to that motion.

10:11:32 25 THE COURT: But there has been a time crunch

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1 for you, for them, the Petitioner, for everybody. I  
2 mean, the maps just got passed here, what? Three  
3 weeks -- a month ago?

10:11:45

4 MR. HECKER: Correct, and we've now burned half  
5 of the 60 days that Your Honor has jurisdictionally  
6 because they didn't bother to challenge the Senate map  
7 when they could have. They were passed together. The  
8 Congressional map was announced 24 hours before the  
9 Senate map, several days before they were enacted  
10 simultaneously. They didn't bother to put it in their  
11 petition, and we lost a month. Thank you, Your Honor.

10:12:00

12 THE COURT: Thank you.

13 Assembly Leader?

10:12:23

14 MR. BUCKI: Good morning, Your Honor, we would  
15 second the arguments that were put forth by Counsel for  
16 the Senate Majority Leader. We would agree with the  
17 futility of the amendment, and in particular what I would  
18 note from the evidence that is before the Court, in  
19 particular the expert reports, is that typically when you  
20 would do all of these various simulations, which  
21 Mr. Trende did 5,000 simulations, we would submit  
22 pursuant to the experts that we've offered that in fact  
23 50,000 simulations would be a more appropriate sample  
24 size, specifically in order to draw any kind of  
25 conclusions concerning these maps. But what would

10:12:39

10:12:58

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1 specifically be expected, given the Partisan makeup of  
2 the voters of the State of New York, is that you would  
3 have a map with 63 senate districts with between 51 and  
4 53 being more likely to elect a Democrat to the State  
10:13:18 5 Senate. And in fact when you look at the map, only about  
6 49 of the districts could be expected to have an  
7 advantage for a democrat. So as our experts, both from  
8 the Assembly side and the Senate side have demonstrated,  
9 actually there is a Republican advantage to these maps  
10:13:36 10 rather than a Democratic vantage. So we would submit  
11 that given that evidence that we provided to the Court,  
12 given the expertise that we've offered from our  
13 experts -- I would note that in particular Mr. Trende is  
14 a graduate student, he's never published anything that's  
10:13:51 15 been subject to peer review. Mr. LaVigna is well -- very  
16 much an expert in the field of communications, he worked  
17 in communications for the State Senate, but he doesn't  
18 claim to be a statistician, he doesn't claim to have any  
19 kind of particular background that would give him the  
10:14:08 20 authority to be able to give a proper statistical opinion  
21 as to the propriety of these maps because when you get  
22 down to it, evaluating these maps is a matter of social  
23 science and a matter of evaluating mathematically whether  
24 in fact there is an unfair partisan advantage that's been  
10:14:28 25 given to one party or another. So we would submit that

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1 the petition is lacking in merit. The proposed amended  
2 petition is lacking in merit.

3 The other thing I'd like to say, and I'm going  
4 to touch on it briefly now, but I do anticipate  
5 discussing it in greater detail later on if we do get to  
6 argument on the merits of the actual petition, is the  
7 issue of standing. We only have a limited number of  
8 Petitioners in this case and there is no proposal to add  
9 any Petitioners in the amended petition. And we would

10:14:41

10 submit that the law is clear both from the United States  
11 Supreme Court as it's been put forth in the Gill versus  
12 Whitford case which Mr. Tseytlin had the opportunity to  
13 argue before the Supreme Court. This is true under the  
14 Hays versus United States case, and in the State of New

10:15:00

15 York. It's true under the Bay Ridge Community Council  
16 versus Carey case from the mid 1980's, is that in order  
17 to challenge the lines of a particular district the

10:15:16

18 Petitioner needs to have standing, and the person who  
19 would have standing is a person who actually lives in  
20 that district. There are 63 Senate districts that are

10:15:34

21 proposed in this redistricting plan from throughout the  
22 State of New York, and many fewer petitioners than 63.

23 And what the Court will find is that the vast majority of  
24 districts are not represented by any Petitioner in the  
25 amended petition.

10:15:53

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1 THE COURT: Let me ask you something.

2 MR. BUCKI: Yes.

3 THE COURT: The case law seems to indicate that  
4 prior to predating the 2014 constitutional amendment that  
10:16:06 5 required a Petitioner to be a resident of the district  
6 before he would have standing, but wasn't that changed by  
7 the constitutional amendment? Doesn't anyone have the  
8 standing to challenge it?

9 MR. BUCKI: No, it was not, and I'm glad Your  
10:16:20 10 Honor brought this up because we looked into this  
11 yesterday, and in preparation for today. And in  
12 particular the key case is the Bay Ridge Community  
13 Council case that determined that in order to have  
14 standing you need to live, for state constitutional  
10:16:34 15 purposes, in a district. And the language that  
16 Mr. Tseytlin cites from the state Constitution that says  
17 any citizen may challenge a map, that very language was  
18 not added to the Constitution in the 2014 amendment. In  
19 fact, that language was in the state Constitution as it  
10:16:55 20 existed in the mid 1980's when Bay Ridge Community  
21 Council was decided. So as a consequence, just because  
22 it says any citizen may challenge a map -- it's true any  
23 citizen may challenge a map, but there's an additional  
24 requirement that's unstated expressly in Article 3 of the  
10:17:13 25 Constitution. But that is a requirement that comes to us

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1 from the tradition of the common law which is that in  
2 order for a citizen to challenge, that citizen needs to  
3 have standing. So that language was in the Constitution  
4 in the mid 1980's, and not with understanding that -- Bay  
10:17:29 5 Ridge Community Council at the Supreme Court level, as  
6 affirmed by the appellate division, as affirmed by the  
7 Court of Appeals on the decision that are rendered by the  
8 Appellate Division, determined that there was no standing  
9 on part of a gentleman who I believe lived in Long Lake  
10:17:44 10 in Hamilton County who was trying to allege that somehow  
11 there was an improper gerrymander on racial grounds in  
12 Queens, and the Supreme Court said a person in Long Lake  
13 cannot challenge what goes on in terms of how a map is  
14 drawn in Queens. And that was true even though the state  
10:18:06 15 constitution said then as it does now that any citizen  
16 can make a challenge. So we would submit that with  
17 respect to the amended petition, the vast majority of  
18 Senate districts are unrepresented by the Petitioners,  
19 and so as a consequence, the amended petition would lack  
10:18:21 20 merit in that the vast majority -- in that the  
21 Petitioners themselves cannot challenge the vast majority  
22 of the districts that have been put forth in the Senate  
23 map.

24 And then of course we would second the  
10:18:35 25 contentions made by the counsel for the Senate Majority

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1 Leader with respect to the prejudice if this amendment  
 2 were to be granted, in that, for example, there are  
 3 deadlines with respect to issuing ballots under the  
 4 UOCAVA, U-O-C-A-V-A statute that are coming upon us as  
 10:18:55 5 soon as the middle of May, not to mention the fact that  
 6 this proceeding needs to be completed by April 4th. And  
 7 so for all of those reasons, we oppose the motion for  
 8 leave to amend.

9 THE COURT: Thank you, Mr. Bucki.

10:19:07 10 Is there anyone else I haven't called on yet?

11 *(No response.)*

12 THE COURT: The issues in both the petition and  
 13 the amended petition seem to be the same. The parties  
 14 are the same, the requested relief is almost identical.  
 10:19:36 15 I don't see any prejudice. I'm going to grant leave to  
 16 amend the petition to add the New York State Senate  
 17 redistricting. I'm directing that the answer to the  
 18 amended petition be filed by March 10th which is  
 19 Thursday. That brings us to the Petitioner's order to  
 10:20:03 20 show cause for expedited discovery, and it's been touched  
 21 upon, but let's revisit it. Who will be arguing that on  
 22 behalf of the petitioner? Mr. Tseytlin?

23 MR. TSEYTLIN: Thank you, Your Honor, I did  
 24 touch upon this earlier. What we've requested here is  
 10:20:29 25 the standard discovery that partisan gerrymandering

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1 Plaintiff's do readily obtain in cases around the  
 2 country. The only case they've cited that denied the  
 3 discovery, only did so after there was already a holding  
 4 that the case was lacking in merit. Now just to be clear  
 10:20:48 5 on our procedural argument, which I think can be ruled  
 6 upon today or as soon as Your Honor is able, we do not  
 7 need discovery in our procedural argument. That is just  
 8 a matter of straight constitutional text. We are -- on  
 9 our substantive argument, we do think we have put before  
 10:21:06 10 Your Honor more than sufficient evidence for us to  
 11 prevail. Having said that, just because we put enough  
 12 evidence for us to prevail doesn't mean we're not  
 13 entitled to the full scope of evidence including --  
 14 because I'm sure that one way or the other this matter is  
 10:21:19 15 going to get appealed.

16 THE COURT: Subject to qualified privilege?

17 MR. TSEYTLIN: Sorry?

18 THE COURT: Subject to qualified --

19 MR. TSEYTLIN: Of course, Your Honor. If Your  
 10:21:29 20 Honor things this aspect of our request is overbroad or  
 21 subject to that privilege, we would certainly be open to  
 22 a narrowing of our discovery request.

23 THE COURT: Well, your request seemed a little  
 24 overbroad to me. It was just sort of open ended.  
 10:21:45 25 Anything relating to the redistricting, that's pretty

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1 broad.

2 MR. TSEYTLIN: If Your Honor thinks that's too  
3 broad, Your Honor, we would not oppose Your Honor  
4 narrowing that or striking that paragraph.

10:21:57 5 The primary thing that we do want is to find  
6 out what political data -- what political information  
7 they looked at and what communications that they had with  
8 the IRC or other third parties which are all deeply  
9 relevant to when we get to the substantive aspect of our  
10:22:16 10 petition. The courts are -- around the country look at  
11 three categories of information when deciding whether  
12 there was partisan intent, which is the only thing that  
13 would be -- that we need to prove. We don't need to  
14 prove some sort of other things, partisan intent. So  
10:22:34 15 they look at statistical evidence of partisan bias, we've  
16 talked about that. If you look at the individual  
17 specific lines and see which communities of interest have  
18 been broken up for what. Don't necessarily need  
19 discovery on that, but they also look at the process.

10:22:51 20 Did the map drawers look at political data? Had -- did  
21 they consult with a third party? Did they get  
22 behind-the-scenes directions from the state party?

23 THE COURT: I assume you're looking for  
24 something that shows somebody directed the Commission not  
10:23:07 25 to make any decisions on this thing? Am I right?

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1 MR. TSEYTLIN: That would certainly be a  
2 relevant consideration in determining whether the process  
3 was directed towards the goal of drawing a partisan map.  
4 Under standard intent case law the overall process --

10:23:28 5 THE COURT: Wouldn't that be relevant if that's  
6 what you were seeking? Wouldn't that be relevant to your  
7 procedural argument?

8 MR. TSEYTLIN: I think it would be more  
9 relevant to our substantive argument because even if they  
10:23:39 10 hadn't attempted to break the process -- which you know  
11 with discovery will reveal if they did -- the bottom line  
12 is they just didn't follow the exclusive process. So  
13 certainly that kind of evidence would show why their  
14 argument must be wrong. That the ability to tell those  
10:24:00 15 that you appoint, don't pass anything so we can go back  
16 to doing the business exactly how we did in 2014, you  
17 know, that is an absurd result of what they're arguing,  
18 but we don't need to prove that in any way to prevail in  
19 our procedural argument. The reason for that is that's  
10:24:17 20 just like -- because the commission didn't pass out a  
21 second set of maps, that's just like under the prior  
22 system if the assembly didn't pass out a map. It's just  
23 a necessary part of the law making process that did not  
24 occur. However if they did act to undermine the  
10:24:35 25 committee the commission process in service of a map that

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1 left, right and center, everyone -- I mean, I heard my  
2 friend say, this is a Pro-Republican, that's silly.  
3 Left, right and center. Everyone recognizes this is an  
4 egregious partisan gerrymandering. If in service of that  
10:24:55 5 they told the IRC, don't pass anything because we don't  
6 want to have the political accountability of rejecting a  
7 Commission map because we want to jam through this  
8 egregious gerrymandering to fulfill the Governor's  
9 promise to advance the interest of the national  
10:25:12 10 democratic party to fulfill the -- one of the Democratic  
11 leaders point that they wanted to gerrymander New York or  
12 they did gerrymander New York to get revenge for what  
13 Republicans are doing in Texas and North Carolina  
14 allegedly in service of that, they communicated with  
10:25:33 15 those individuals, they communicated with the IRC, that  
16 would be relevant evidence of partisan intent, which is  
17 what's illegal. Intent is a fact specific inquiry.  
18 While we do have overwhelming evidence of it already,  
19 certainly those kind of communications would further  
10:25:49 20 bolster our showing of partisan intent. And that's why  
21 it's deeply irrelevant under the five-part test that  
22 courts use to analyze the qualified Speech and Debate  
23 privilege. But again, I will reiterate, if Your Honor  
24 thinks some of those later requests we have in our five  
10:26:09 25 requests are overbroad, anything to do with

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1 redistricting, you know we certainly would welcome Your  
 2 Honor narrowing that to get to the nub of what we're  
 3 really trying to get to, which is the political data they  
 4 looked at, and the communications they had with third  
 5 parties about the obvious gerrymander -- the obvious  
 6 embarrassing gerrymander they've imposed on the state of  
 7 New York.

10:26:22

8 THE COURT: Thank you, MR. TSEYTLIN.

9 On behalf of the Governor?

10:26:32

10 MS. MCKAY: Yes, Your Honor. Heather McKay,  
 11 again.

12 First of all, I want to emphasize that as our  
 13 papers made clear, this kind of a special proceeding  
 14 which Petitioners themselves have selected here,  
 15 generally disfavors discovery. And that in particular in  
 16 order to justify discovery in a case such as this one  
 17 that it makes them -- it even more necessary that the  
 18 demands that they need to obtain a court order for, need  
 19 to be appropriately narrow, and it's not Your Honor's job  
 20 to narrow those. The requests are completely overbroad,  
 21 and should therefore be denied in the sense that  
 22 Petitioner's have to obtain this is different than a  
 23 regular preliminary action. Petitioners have to obtain a  
 24 court order to get their discovery and what they've  
 25 provided to Your Honor is vastly overbroad and again,

10:26:56

10:27:20

10:27:37

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1 it's not Your Honor's job to narrow the scope of those  
 2 demands. With respect to the first cause of action,  
 3 Petitioners have conceded that they are raising a purely  
 4 legal question. I do want to touch just briefly though  
 10:28:00 5 upon the fact that they continue to insist that they need  
 6 a discovery with respect to the IRC process. That's  
 7 absolutely untrue. They need to justify that as relevant  
 8 material and necessary to prove their claims. And given  
 9 that all parties agree on the facts surrounding the  
 10:28:22 10 evidence in the IRC, the IRC could not reach an agreement  
 11 that's undisputed. They don't need to do a pointless  
 12 fishing expedition into the IRC process. And that's just  
 13 one example of how vastly overbroad these are, as  
 14 presented. And it's the Petitioners' obligation to  
 10:28:42 15 appropriately narrow any of their requests they've --

16 THE COURT: Wouldn't it be relevant if someone  
 17 did touch base with the Commission or any member of that  
 18 Commission to say, you know, then you're doing your job,  
 19 but don't come up with a set of maps?

10:29:00 20 MS. MCKAY: To be honest, Your Honor, I'm not  
 21 entirely sure it would be particularly relevant here. We  
 22 obviously have Democrats and Republicans pointing the  
 23 finger at each other saying --

24 THE COURT: Wouldn't that sort of tend to  
 10:29:12 25 indicate someone intentionally not following the process?

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1 MS. MCKAY: Well, I think the only relevance  
2 that it could have would be establish that the breakdown  
3 of communications -- which again is undisputed between  
4 all the parties, they couldn't reach an agreement, so  
10:29:28 5 their argument says that necessarily the legislature no  
6 longer has any role in the redistricting process and has  
7 to completely turn to the judicial branch, and our  
8 argument is that of course that's preposterous. If they  
9 have the ability to freely change or amend the maps, that  
10:29:45 10 would be passed by the IRC in the first place, then  
11 obviously they have the ability to create maps when  
12 there's an IRC stalemate. As to the second and third  
13 causes of action, again our arguments fall back on the  
14 principles that we've already covered which is that these  
10:30:09 15 claims are not implicating the Governor and now they're  
16 essentially admitting here in court that she's named in  
17 the same way that the Board of Elections is named, to  
18 obtain the relief that they're seeking. Well, now  
19 they've completely eviscerated any claims of necessity of  
10:30:26 20 discovery from the Governor. They're not seeking any  
21 discovery from the Board of Elections, and we've also  
22 already -- my colleague has gone into the issues of  
23 timing, in particular this motion is where that's  
24 relevant because the discovery demands, the document  
10:30:47 25 demands, and the number of depositions that they're

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1 proposing to hold of very high ranking statewide  
 2 officers, would significantly delay the proceedings and  
 3 not allow resolution within the constitutional confines.  
 4 And finally I think that we've covered a lot on  
 10:31:09 5 privileges today, so I'm not going to get further into  
 6 that, but obviously we're reserving our rights to raise  
 7 specific privileges as to specific demands, if any are in  
 8 fact served. Those are absolutely going to bar the  
 9 discovery in the first place which will mean that we've  
 10:31:26 10 delayed only to come to that conclusion, and they will  
 11 not have access to the materials that they're seeking  
 12 because of the importance of the legislative process and  
 13 the executive's need to be able to do her job. Thank  
 14 you.

10:31:46 15 THE COURT: Thank you, Ms. McKay.

16 On behalf of the Senate Majority Leader?

17 MR. CUTI: Thank you, Your Honor, John Cuti.

18 THE COURT: Good morning.

19 MR. CUTI: Good morning. A lot to cover.

10:32:05 20 Let's start with CPLR 408. The standard is not  
 21 relevance, as Your Honor's questions reflected, it is  
 22 whether discovery should be allowed in, and the standard  
 23 for that is whether it's essential. Now Petitioner's  
 24 counsel has gotten up here today and said that Your Honor  
 10:32:23 25 should enter judgment on the merits today on their

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1 procedural claim. So obviously discovery is not  
 2 essential for that claim even on their view. He just  
 3 told you a few minutes ago, counsel for Petitioner, that  
 4 they have with respect to their second claim the  
 5 substantive claim, overwhelming evidence already. So if  
 6 they already have overwhelming evidence, then discovery  
 7 by definition is not essential, for that reason alone you  
 8 should deny leave. Related to another reason to deny  
 9 leave is the inevitable delay. Now, no discovery  
 10 requested have yet been propounded. The issue before you  
 11 is whether they should be allowed to, and as Your Honor  
 12 noted, they're rather dramatically overbroad. So one  
 13 assumes if leave is granted they would serve some sort of  
 14 narrowed requests. But then -- and here I want to talk  
 15 about absolute legislative privilege. There is going to  
 16 be intensive litigation both here and depending on Your  
 17 Honor's rulings interlocutory in the Fourth Department.  
 18 Now Petitioner's counsel either misunderstands the law of  
 19 the Speech or Debate Clause or he mislead, Your Honor.  
 20 The federal cases that apply a qualified privilege do not  
 21 involve the Speech or Debate Clause. Let me just take a  
 22 few minutes to unpack that. The United States  
 23 Constitution has a Speech or Debate Clause. And there's  
 24 a long line of decisions beginning in the 1940's and  
 25 running through the 80's where the court in opinion after

10:32:46

10:33:11

10:33:28

10:33:47

10:34:05

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1 opinion stresses that the privilege is absolute based on  
2 the plain language of the clause. The Members of the  
3 House and Senate shall not be questioned in any other  
4 place with respect to their legislative conduct. Now,  
10:34:28 5 New York's Constitution has a virtually verbatim clause  
6 and the New York Court of Appeals has held in Ohrenstein  
7 that the New York Speech or Debate Clause provides at  
8 least as much protection as the Federal clause does to  
9 members of the Federal Congress, and that privilege is  
10:34:49 10 absolute. The law is crystal clear that members of the  
11 legislature cannot be questioned about their motives or  
12 their intentions or their work they do at the  
13 subcommittee or anything that is directly related to the  
14 legislative process. Drawing maps is a quintessential  
10:35:10 15 legislative function, and the case law from the Supreme  
16 Court -- and again there are cases cited in our papers  
17 that make clear that the Federal cases construing the  
18 Speech or Debate Clause are persuasive authority. The  
19 privilege doesn't just apply to the elected members, but  
10:35:26 20 to their aides, even to consultants, anyone who is  
21 performing legislative functions. It's a functional  
22 analysis, it doesn't turn only to the title of the  
23 person.

24 And so where does the notion of a qualified  
10:35:40 25 privilege come from? I'll explain. There are many

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1 redistricting litigations where state maps are challenged  
2 in cases filed in Federal Court. Now one of the main  
3 reasons there are two main foundations for the absolute  
4 nature of the Speech or Debate Clause privilege, one is  
10:36:01 5 respect for the independence of the legislator and  
6 legislature, and relatedly respect for the separation of  
7 powers. The executive and judiciary are not permitted  
8 ever to question what members are doing with respect to  
9 their legislative conduct. But when a Federal Court has  
10:36:22 10 state legislators before it, there are no separation of  
11 powers concerns, it's two different governments. The  
12 Federal Court isn't telling a Federal legislator what she  
13 can do. There are federalism concerns, but that cuts in  
14 favor of the federal government because of supremacy  
10:36:41 15 clause. And so when those federal district courts and  
16 circuit courts are talking about a qualified privilege,  
17 they're not applying the speech or debate clause at all.  
18 How could they? The Federal Speech or Debate Clause  
19 doesn't apply to state legislators, it says Senators or  
10:37:00 20 representatives. A Federal District Court is not going  
21 to apply the New York Constitution or the Pennsylvania  
22 Constitution. What they do in all the cases, including  
23 in every single case they cite for the proposition  
24 applies what's called the Federal common law. The  
10:37:15 25 Federal common law has long respected legislative

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1 privilege, but when a Federal court's applying the  
2 Federal common law, they're bound by Federal Rule Civil  
3 Procedure 501, and that rule says; we respect common law  
4 privileges, but you must construe them narrowly. The  
10:37:34 5 Speech or Debate jurisprudence is the polar opposite,  
6 case after case from the Supreme Court says it must be  
7 broadly construed to protect the independence of  
8 legislators. So this is -- the five-factor test is not  
9 applicable at all, not even for illustrative purposes.  
10:37:54 10 The cases that matter are cases like Eastland and Graves  
11 and Brewster and Helstoski, all Supreme Court cases that  
12 stress the privilege is absolute and the core of the  
13 privilege protects the motivations and the intentions of  
14 legislators. There is what Justice Harlan said in  
10:38:17 15 Johnson that is precisely what the Speech or Debate  
16 privilege protects. And so yes, intent can be an issue,  
17 but it can be proved in many ways. It can be proved by  
18 objective evidence. We all know that to prove murder in  
19 the second degree in New York you have to prove intent,  
10:38:36 20 and while motive is not an element, it's certainly  
21 relevant. But you can't ask the Defendant what he  
22 intended because he has an absolute privilege, but you  
23 can still try to prove the case. Now they say they've  
24 already proved their case, so they don't need this  
10:38:52 25 discovery at all, but even were they allowed to seek

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1 discovery, they can't have Your Honor order legislators  
 2 to answer questions or produce documents about their  
 3 correlative functions. You don't have the power to do  
 4 that under the Constitution. And for them to tell you  
 10:39:09 5 that it's a qualified privilege is either really a poor  
 6 reading of the law or something worse. So if Your Honor  
 7 has any questions, I'm happy to answer them.

8 THE COURT: Thank you. Thank you. Appreciate  
 9 it, sir.

10:39:22 10 Mr. Bucki?

11 MR. BUCKI: Thank you, Your Honor. Of course  
 12 we would agree with counsel for the State Senator  
 13 Majority as to the absolute nature of the privilege, and  
 14 as much as it would apply to State Senators it would also  
 10:39:43 15 apply to Members of the Assembly. We would further agree  
 16 that just by the nature of the papers that have been  
 17 offered by the Petitioners, they have offered statistical  
 18 evidence, they have offered evidence of so called public  
 19 statements by the Governor. And as Mr. Cuti said, there  
 10:40:00 20 are other ways to prove partisan intention with the  
 21 Petitioners' claim is their objective, and I would submit  
 22 that a good synonym for the word intent -- and this  
 23 phrase partisan intent comes directly from their motion  
 24 for leave to engage in discovery. A synonym for intent  
 10:40:18 25 is motive. And matter of Maron versus Silver from the

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1 Court of Appeal from about a decade ago is clear, that  
 2 there is no place to require state legislators to answer  
 3 for their motivations in terms of how it is that they  
 4 come to enact a certain piece of legislation. And we  
 10:40:37 5 would agree that enacting a new proposed map for the  
 6 congressional lines and State Senate lines is  
 7 quintessentially a legislative act. Where I would like  
 8 to focus is with respect to the reply papers that were  
 9 served by the Petitioners on Tuesday, March 1st which we  
 10:40:57 10 did not have an opportunity to respond to in writing.  
 11 And in response to the ample authority that demonstrates  
 12 the absolute nature of the legislative privilege, the  
 13 Petitioners offer several cases wherein they claim that  
 14 in fact the privilege is not absolute, and I think it's  
 10:41:18 15 really important to go through each one of those cases to  
 16 demonstrate the distinctions such that the argument that  
 17 the Petitioners' offer does not have merit.

18 So first of all they cite to a case called  
 19 Larabee versus Governor of the State of New York which  
 10:41:34 20 eventually went up on appeal under the matter of Maron  
 21 versus Silver case. They said Larabee demonstrates that  
 22 in fact the privilege is not absolute. That's not the  
 23 case. What Larabee was about was the issue of  
 24 legislative immunity, because there -- what was alleged  
 10:41:51 25 was that the state legislators had violated their

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1 constitutional requirement to raise the pay of the judges  
2 in the State of New York, and the response that was given  
3 by state legislators is, well, we cannot be held to  
4 account for that on account of legislative immunity. And  
10:42:09 5 in fact what eventually was held, in matter of Maron  
6 versus Silver was that while legislators could not be  
7 required to pay out of their own pockets for additional  
8 amounts to be allocated for salaries for judges, a  
9 declaratory judgment to be issued such that it could be  
10:42:25 10 held that in fact the Constitution had been violated in  
11 as much as under the separation of powers doctrine, the  
12 legislature had not done its job to give proper  
13 compensation to the State Court Judges. So they could do  
14 their job. But on appeal when the Larabee case went up  
10:42:44 15 with Matter of Maron versus Silver, Maron versus Silver  
16 was clear when it got to a paragraph talking about the  
17 privilege issue rather than the immunity issue as to the  
18 absolute nature of the legislative privilege because  
19 under the Speech or Debate Clause in the State  
10:43:00 20 Constitution, it could not be more clear, that for any  
21 speech or debate in either House of the Legislature, the  
22 members shall not be questioned in any other place. And  
23 over time this clause has been construed by the courts.  
24 And in particular I would note the campaign for fiscal  
10:43:19 25 equity case, that was a case where the person who was

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1 being deposited was a staffer at The State Education  
2 Department. And that staffer in the deposition was  
3 starting to be asked, well what is the nature of your  
4 communications with folks in the State Legislature with  
10:43:34 5 respect to school funding. And so we would submit that  
6 that's a very similar kind of inquiry that the  
7 Petitioners are looking to pursue with respect to, oh  
8 legislators, what were the nature of your communications  
9 that you had with members of the Independent  
10:43:50 10 Redistricting Commission and there in campaigned for  
11 fiscal equity. The Court said this privilege is so broad  
12 that it isn't simply a privilege that can be invoked by  
13 state legislators. It can be invoked by the staff, by  
14 the people who work with them, by the consultants, by  
10:44:06 15 people who work for other state agencies with respect to  
16 the interface that takes place with state legislators  
17 both orally and in terms of their written communications  
18 as well. And we would submit that that same privilege  
19 applies, and no matter how much Petitioners may say that  
10:44:22 20 they could try to make their request a bit more narrow,  
21 and as much as they make -- they offer that invitation to  
22 the Court, we would submit that the privilege issue would  
23 still apply and we could continue to raise it such that  
24 none of -- that no discovery demand that the Petitioners  
10:44:41 25 could ever create as to the motivations or partisan

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1 intent could ever be countenanced under the absolute  
2 legislative privilege. And Your Honor made a point, well  
3 isn't it relevant that in fact say a State Legislator had  
4 some communication with a member of the Independent  
10:45:00 5 Redistricting Commission, and I would say that under the  
6 law, privilege has superiority over relevance all the  
7 time. So for example, if an attorney is counseling a  
8 polluter with respect to bad documents that exist in the  
9 polluter's files about some kind of toxic tort  
10:45:22 10 allegations, documents that would not be helpful if they  
11 were to see the light of day, that document -- that memo  
12 is subject to attorney/client privilege.

13 THE COURT: And your example though, could they  
14 get that information from the member of the Commission?  
10:45:36 15 If they talked with the legislator?

16 MR. BUCKI: I would submit that a member of the  
17 Commission is the same -- is in the same position as --

18 THE COURT: They're not legislators --

19 MR. BUCKI: -- as the education department  
10:45:48 20 employee who was being deposed in the campaign for fiscal  
21 equity case. There it was in the middle of a deposition  
22 and that employee was being asked questions about her  
23 interface with the legislature. That employee was being  
24 represented by someone from the State Attorney General's  
10:46:05 25 Office who raised an objection on the basis of privilege,

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1 and it had to go to State Supreme Court and actually went  
 2 up to the First Department in 2009. And the person who  
 3 was taking the deposition said this is someone who works  
 4 for State Ed, this is someone who works for a state  
 10:46:21 5 agency, this isn't somebody who's a legislator. But not  
 6 withstanding, the privilege was so broad that the Court  
 7 was clear that that person could not be questioned with  
 8 respect to those communications.

9 THE COURT: Isn't it supposed to be an  
 10:46:35 10 Independent Redistricting Commission?

11 MR. BUCKI: Well, actually there was a case  
 12 that went before Albany County Supreme Court, the Leib  
 13 case wherein it was supposed to be on the ballot in part  
 14 of the syllabus that was presented to the voters that  
 10:46:49 15 this was an Independent Redistricting Commission. And in  
 16 fact the Court held you can't call it an Independent  
 17 Redistricting Commission in terms of ballot proposal, not  
 18 withstanding the fact that in the parlance that's  
 19 developed since then they have called themselves  
 10:47:03 20 independent, but likewise if somebody committed murder  
 21 and then goes to their priest for confession and says I  
 22 confess that I committed this murder, absolutely that  
 23 would be relevant, but there's an absolute priest  
 24 penitent privilege in the State of New York. And so  
 10:47:18 25 likewise, just because something is relevant doesn't mean

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1 that it isn't privilege, and the privilege trumps the  
2 relevance every single time. With respect to the  
3 Ohrenstein case, they say that's another case that  
4 demonstrates the privilege isn't really absolute. That  
10:47:33 5 was a case that involved allegations of bribery. There  
6 are no allegations of bribe or money changing hands or  
7 anything of that nature. And then in fact where I'd like  
8 to focus also is on a case that they cite from Illinois  
9 which is Burton versus Corn Products Refining Company  
10:47:51 10 from 1918. And little more recently from the appellate  
11 division in the late 1950's; Reformed Church of Mile  
12 Square. And they say here are instances where not  
13 withstanding a Speech or Debate Clause, the legislators  
14 were brought in and required to testify concerning the so  
10:48:10 15 called purpose of legislation. I think it could be  
16 argued that intent and purpose could be two totally  
17 different things. But setting that aside, what's  
18 important to see about those cases is these are cases  
19 that involved municipal legislators. So in the Reform  
10:48:27 20 Church of Mile Square case, that concerned the prospect  
21 of getting discovery from persons who served on the City  
22 Council in the City of Yonkers, and with respect to the  
23 Burton case that was a case that involved getting  
24 discovery from people who served on a City Council in  
10:48:42 25 Granite City, Illinois -- I had to look up where that is,

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1 it's just outside of St. Louis -- but what's important is  
2 in neither case does it talk about getting discovery from  
3 members of the State Legislature or people who interface  
4 with members of the State Legislature, and there's a  
10:49:02 5 reason for this, because as the Humane Society case that  
6 the Petitioners also rely upon makes clear, there is a  
7 difference between the jurisprudence that exists with  
8 respect to the privilege that -- the legislative  
9 privilege that state legislators receive, versus the  
10:49:20 10 jurisprudence that exists with respect to the privilege  
11 that local legislators receive such as members of a city  
12 council or a town board in the State of New York or  
13 county legislator. So that is a common law privilege  
14 that has been set forth from the courts, and there can be  
10:49:36 15 exceptions to the common law privilege. Whereas the  
16 privilege for state legislators is an absolute privilege  
17 that exists under the State Constitution. And so the  
18 bottom line is none of the authorities that the  
19 Petitioners, my friends on the other side, have offered  
10:49:53 20 in reply would support anything other than an absolute  
21 legislative privilege. And if the Petitioners did not  
22 want there to be an absolute legislative privilege  
23 applied, they could have brought this case prospectively  
24 in Federal Court. They talk about the various five  
10:50:11 25 factor tests that are applied. That may be true in

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1 Federal court, but we're not in Federal court for the  
 2 western district of New York, we're not in the United  
 3 States Supreme Court, we are in the Supreme Court for New  
 4 York State, Steuben County, and in Steuben County Supreme  
 10:50:26 5 Court we would submit like anywhere else in New York  
 6 State Court, there is an absolute privilege that  
 7 attaches.

8 The last thing I would like to say -- actually  
 9 two more things. First of all, with respect to the  
 10:50:39 10 burden.

11 THE COURT: With respect to what?

12 MR. BUCKI: With respect to the burden. Much  
 13 has been said about the burden by my colleague Mr. Cuti,  
 14 but I would like to emphasize that if there were to be  
 10:50:52 15 any kind of discovery demands simply the task of putting  
 16 together copious privilege logs, not to mention the task  
 17 of having to search for all the different documents that  
 18 could potentially be responsive to a request that would  
 19 eat up the remaining time that we have, this proceeding  
 10:51:11 20 needs to be decided within one month from tomorrow, and  
 21 authorizing discovery which the Petitioners acknowledge  
 22 in saying this petition can be granted today, they're  
 23 basically acknowledging that they don't really need it.  
 24 But even if this discovery were to be authorized, simply  
 10:51:30 25 the litigation that would happen on appeal in terms of a

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1 notice of appeal, the fact that there would be an  
 2 automatic stay of the discovery under CPLR 5519(a) (1),  
 3 the fact that then we'd have to go before a special  
 4 session of the Fourth Department to have to sort this  
 10:51:44 5 out, every day that goes by is another day that this  
 6 proceeding is not going to be decided on the merits,  
 7 which it needs to by April 4th. And so we would submit  
 8 that the materiality and the necessity that would require  
 9 not only under CPLR 408 but also CPLR 3101 simply is not  
 10:52:05 10 there.

11 And the last thing I'll say at this juncture is  
 12 in as much as the Petitioners say this petition can be  
 13 granted today, I wanted to make absolutely clear that now  
 14 that the petition has been amended, it's impossible to  
 10:52:19 15 grant the petition today. It would be possible to deny  
 16 the petition today, but to grant it, no, and the reason  
 17 for that is that the Respondents have not had an  
 18 opportunity to answer for every petition. There needs to  
 19 be an answer. And the case on this point is matter of  
 10:52:36 20 *Kickertz, K-I-C-K-E-R-T-Z, versus New York University.*  
 21 It's from the Court of Appeals from about a decade ago,  
 22 that if the petition is granted without an opportunity  
 23 for the respondents to answer, then that's going to be  
 24 overturned on appeal because as a matter of due process  
 10:52:54 25 the Respondents need an opportunity to answer to -- we

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1 would submit that to take that step of granting a  
2 petition at this time, as the Petitioners would invite  
3 this court to do, simply is not something that can happen  
4 at this juncture.

10:53:06

5 THE COURT: Thank you, Mr. Bucki.

6 MR. BUCKI: Thank you.

10:53:28

7 THE COURT: The Constitution provides both  
8 legislative immunity and legislative privilege, however  
9 the Courts have found the state legislators do not have  
10 an absolute right to legislative privilege. In 2003 in  
11 the case of Rodriguez versus Pataki the Court laid out a  
12 balancing test to determine what information should be  
13 disclosed and what needs to be protected because of the  
14 chilling affect it would have on the legislature if the  
15 information was disclosed. The Rodriguez court adopted a  
16 five-factor test. Under the five prong test the Court  
17 finds the request to discovery is relevant, that the  
18 relevant discovery is not otherwise available, that the  
19 issue of this -- the issues of this case are very  
20 serious, and that the Government's role in the case is  
21 huge. Further, that limited discovery will not have the  
22 potential of chilling legitimate legislative actions in  
23 the future. Since this Court only has until April 4th to  
24 decide this matter, the Court will grant expedited  
25 discovery, however short time period that may be. All

10:53:46

10:54:06

10:54:25

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1 persons asked to provide discovery are to give this his  
2 or her highest priority, and to set aside other matters.  
3 The Court will permit discovery of legislative  
4 respondents as to whether or not the map drawing process  
10:54:46 5 was directed and controlled by one political party or the  
6 legislative leaders of one political party. This would  
7 include whether the Respondents without Republican input  
8 directed and/or controlled the map drawing process. The  
9 Court will also permit discovery of the legislative  
10:55:06 10 Respondents as to any public remarks or statements made  
11 by them, any public testimony he or she gave about the  
12 redistricting process and/or maps, and any inquiries from  
13 and responses to the public or media about the  
14 redistricting process and/or maps. This would include  
10:55:29 15 public comments made by the Respondents about the  
16 Independent Redistricting Commission, and the IRC's  
17 action or lack of action. This would include any  
18 communication between the Respondent's and third parties  
19 about advancing a partisan agenda or any efforts to  
10:55:49 20 undermine the constitutional process of having the IRC  
21 produce a viable map and/or viable second map. This  
22 would also include all documents and communications  
23 concerning the work of the Commissioners of the  
24 Democratic caucus of the IRC, which documents and  
10:56:09 25 communications were received from third parties. Any

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1 discovery from non-legislative persons is not so  
 2 restricted. The Governor and Lieutenant Governor are not  
 3 to be considered as non-legislative members. Discovery  
 4 is to be completed by March 12th, and I know that's  
 10:56:27 5 tight. I'll be posting an order to this fact and  
 6 uploading it to NYSEF. Does anyone else wish to be heard  
 7 on the argument of lack of standing? I know it's been  
 8 touched upon. Does anybody else need to respond to that?

9 MR. HECKER: I would like to, Your Honor.

10:56:55 10 THE COURT: On behalf of the Senate Majority  
 11 Leader?

12 MR. HECKER: Hello, again Your Honor, Eric  
 13 Hecker; Cuti, Hecker and Wang for the Senate Majority.

14 Just very briefly, the case that they rely  
 10:57:15 15 upon, the Humane Society case from the third department  
 16 is a case in which the Court denied standing for every  
 17 Petitioner but one. And the only Petitioner who was  
 18 allowed to proceed in that case was allowed to proceed  
 19 precisely because she lived next door to the foie gras  
 10:57:40 20 farm at issue that she alleged was contaminating her  
 21 water. Here they put no evidence in when they filed  
 22 their petition, none. They put belatedly some evidence  
 23 of where Petitioners live in reply which appellate courts  
 24 have held you can't do in a special proceeding, period.  
 10:58:01 25 It can't be cured in reply. But more to the point, there

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1 is still no evidence in the record at all that anybody in  
2 this case lives in Long Island, and this is exactly the  
3 kind of generalized non-specific claim made by  
4 Petitioners with no injury in fact, who are not within  
5 the zone of interest. We are in District 23.

10:58:24

6 THE COURT: Is an adjoining district that might  
7 be affected by another district, is that in the zone of  
8 interest?

9 MR. HECKER: Perhaps. There are many many  
10 districts between District 23 and Districts 1, 2 and 3 on  
11 Long Island. There's nobody within striking distance of  
12 standing. So they have a technical problem that they  
13 created by failing to put in any evidence with their  
14 petition to establish standing, which my friend  
15 Mr. Tseytlin successfully argued before the Supreme  
16 Court, it's fatal, and the end of the story, and you  
17 can't cure it in reply in the State of New York, but even  
18 if you could, this court has no basis to be judging any  
19 district based claims in Long Island when nobody in this  
20 case lives within striking distance of Long Island.  
21 Nobody from one, nobody from two, nobody from three,  
22 nobody from four, nobody from five, nobody from six,  
23 nobody close to Districts 1 and 2. Just wanted to make  
24 that point, Your Honor.

10:58:35

10:58:58

10:59:15

10:59:33

25 MR. TSEYTLIN: May I be heard on standing?

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1 THE COURT: Pardon me?

2 MR. TSEYTLIN: May I be heard on standing?

3 THE COURT: Go ahead, Mr. Tseytlin.

4 MR. TSEYTLIN: A couple of things standing,

10:59:45

5 Your Honor. First of all, with regard to our procedural  
6 claim that would knock out the entire map, there's no way  
7 to divorce that knockout from any particular district.

8 So with regard to at least a procedural claim there's not  
9 even a colorable standing argument. Any person can raise  
10 that, that would knock out that.

11:00:02

11 With regard to their reference to the Gill  
12 versus Whitford case of the US Supreme Court, I did in  
13 fact argue they should not be allowed to cure by having  
14 additional plaintiffs, the argument was rejected by the  
15 US Supreme Court. The Us Supreme Court sent the case  
16 back down to the lower court to allow them to add more  
17 plaintiffs, that was way later then what happened here,  
18 which is -- we correctly submitted under the  
19 constitutional language that any citizen can challenge  
20 the map, that's the constitutional language. It was not  
21 addressed in the Bay Ridge decision, which was a trial  
22 court decision in any event, and it was not addressed.  
23 So any citizen language we relied on that to the extent  
24 they raised some objections. We then put in sworn  
11:00:51 25 affidavits from citizens throughout the state who are

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1 Petitioners, all of the districts are interlinked. If  
 2 Your Honor strikes down the districts that the  
 3 Petitioners are in on substantive grounds, the other  
 4 districts will need be to be changed in creating the  
 11:01:11 5 remedial map, a partisan interest cannot be advanced as  
 6 it was in Long Island.

7 Finally with regard to standing, again, I will  
 8 reiterate that for our procedural claim, there is no  
 9 colorable argument, and on the others we have citizens  
 11:01:30 10 all over the state who have submitted competent evidence  
 11 timely before the return date, which is all the rules  
 12 require. Thank you.

13 THE COURT: Thank you. Is there anyone else  
 14 who wishes to be heard on that?

11:01:42 15 MS. MCKAY: Your Honor, may we seek  
 16 clarification with respect to the discovery ruling, as  
 17 applied to the Governor and Lieutenant Governor, please?

18 THE COURT: They're considered part of the  
 19 legislative, so they have the privilege to the extent  
 11:01:56 20 that I said.

21 MS. MCKAY: Okay, and with respect to Your  
 22 Honor's rulings as to legislative Respondents need to  
 23 provide discovery, are you including the Governor and  
 24 Lieutenant Governor in --

11:02:10 25 THE COURT: Yes.

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1 MS. MCKAY: Thank you for the clarification.

2 THE COURT: Mr. Bucki, I saw you start to get  
3 up. Is there anything you wanted to address on the  
4 standing issue?

11:02:23 5 MR. BUCKI: I already had the opportunity to  
6 talk quite a bit about standing, I just want to second  
7 what Mr. Hecker says which is that vast swaths of  
8 territory within the State of New York are not  
9 represented by any Petitioner, and he mentioned Long  
11:02:38 10 Island as a really good example. So even if it could be  
11 argued and countenanced, which I don't think it can be,  
12 that somehow as long as you live in the district next  
13 door that you have standing to challenge the way the  
14 district next door is created, well in a lot of cases  
11:02:57 15 there is nobody in the district, and there's nobody next  
16 door. And so as a consequence this really is in the --  
17 more in the nature of a generalized political grievance  
18 rather than a situation where the individuals at issue  
19 would have standing to challenge the entirety of the map  
11:03:16 20 as they claim to do. And with respect to that -- any  
21 citizen language the Bay Ridge Community Council case  
22 that talked about it in detail about the standing of the  
23 person in Long Island -- I should say the lack of  
24 standing of that person with respect to challenging the  
11:03:29 25 way a district map looks in Queens, that was later

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1 affirmed in a detailed decision from the Appellate  
 2 Division and then later affirmed on the basis of the  
 3 Appellate Division opinion at the Court of Appeals. So  
 4 we would submit that this is more than just a  
 11:03:45 5 miscellaneous case, this is a case that went all the way  
 6 up to the Court of Appeals, and the Court of Appeals  
 7 would agree with the Federal courts from Gill versus  
 8 Whitford and Hays versus United States that in order to  
 9 have standing to challenge your district lines, you need  
 11:03:57 10 to live in the district, and the vast majority of the  
 11 Petitioners simply do not.

12 THE COURT: But the Petitioners are challenging  
 13 the map in general, they want everything thrown out.  
 14 Doesn't any citizen have the right to standing to bring  
 11:04:12 15 the petition?

16 MR. BUCKI: We would submit that if you have a  
 17 challenge to your particular district you need to live in  
 18 the district, and that is the position of the Speaker,  
 19 and I think that's the position of the Senate Majority  
 11:04:24 20 Leader as well. And then, second of all, the other  
 21 reason I was about to rise is I just have a question with  
 22 respect to the discovery in terms of how things are going  
 23 to go. I would anticipate once the order is entered that  
 24 there is going to be a notice of appeal filed certainly  
 11:04:38 25 on behalf of the Speaker, I would anticipate on behalf of

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1 the Senate Majority Leader. We would submit -- and I'd  
 2 like to put it on the record now that simply the filing  
 3 of that notice of appeal stays the discovery order and  
 4 that's the position that we take. And I leave it to the  
 11:04:52 5 Petitioners to determine how it is that they're going to  
 6 respond to that opportunity, so CPLR 5519. But further I  
 7 would have a procedural question as to when we can expect  
 8 the transcript to be ready so that that could be included  
 9 in any record on appeal that could be provided to the  
 11:05:11 10 Fourth Department.

11 THE COURT: I'll ask for it to be done ASAP.

12 MR. BUCKI: Very well, Your Honor.

13 THE COURT: Thank you, Mr. Bucki.

14 Have I listened to everyone on the standing  
 11:05:22 15 issue?

16 MR. HECKER: Yes, Your Honor.

17 THE COURT: The motion to dismiss for lack of  
 18 standing is denied, the amended Constitution gives every  
 19 citizen the right to commence this action and allege that  
 11:05:39 20 the maps were drawn with a gerrymandering intent. The  
 21 case law that predates the 2014 constitutional amendment,  
 22 which required a Petitioner to be a resident of a  
 23 particularly aggrieved district is no longer a guide to  
 24 determining standing because of the additional revision.  
 11:05:59 25 Petitioners have provided additional affidavits to verify

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1 that in fact these Petitioners encompass a number of  
2 districts, and of course any district that abuts their  
3 district would also be impacted by any change the Court  
4 may make in the dimensions of the district. That's my  
5 ruling on that.

11:06:16

6 That brings us now to just the petition, the  
7 original petition itself. Honestly, I don't know if I  
8 need to hear argument on that today, and I'll tell you  
9 why. The Petitioners requested that I stay the election

11:06:41

10 or the current petition gathering process until this  
11 matter can be decided. The Court understands that the  
12 Petitioners' experts claim the currently enacted maps are  
13 the most egregious display of gerrymandering of any of  
14 the 5,000 or 10,000 maps that were drawn allegedly in a  
15 non-partisan way. It's a serious allegation. However,  
16 the Respondents' experts paint an entirely different  
17 picture. I've decided that a hearing will be necessary  
18 to be conducted to determine where the truth lies between  
19 the Petitioners' experts and the Respondents' experts.

11:07:29

20 Until I have heard this testimony I'm not in a position  
21 to know whether or not to strike down these maps or  
22 uphold these maps. I'm not inclined at this point in  
23 time to void the maps simply because the IRC failed to  
24 submit a second map. I do not intend at this time to  
25 suspend the election process for the following reasons;

11:07:53

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1 Petitioners have an extremely high level of proof to be  
2 able to prove that the Respondents acted in an  
3 unconstitutional way in creating the Congressional and  
4 Senate maps. That proof is beyond a reasonable doubt  
11:08:19 5 with the Respondents enjoying a presumption of  
6 constitutionality. Two; even if I find the maps violated  
7 the Constitution and must be redrawn, it is highly  
8 unlikely that a new viable map could be drawn and be in  
9 place within a few weeks or even a couple of months,  
11:08:44 10 therefore striking these maps would more likely than not  
11 leave New York State without any duly elected  
12 Congressional delegates. I believe the more prudent  
13 course would appear to be to permit the current election  
14 process to proceed and then if necessary to require new  
11:09:05 15 elections next year if the new maps need to be drawn.  
16 I'm not ruling on the Petitioners' procedural argument  
17 today. I believe I'm not going to make any rulings on  
18 anything until the discovery is done. And I know it's a  
19 very short time period for discovery, but we're all under  
11:09:35 20 the gun. As I said before, the answer to the amended  
21 petition is going to be due by March 10th. Expert  
22 testimony is to start on March 14th, and whatever other  
23 testimony you wish to present. I'm unavailable  
24 March 21st through the 28th and my decision is due by  
11:10:03 25 April 4th. Naturally I reserve the right to make a

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1 decision on what I have before me at the time. I think  
2 everybody here would love to have a lot more time to  
3 pursue this and go through extensive discovery and trial,  
4 but we're faced with the fact that we're under a  
11:10:30 5 deadline. Any future court hearings here will be also  
6 simulcast using the same link and the same password just  
7 so everyone knows, so we don't get a multitude of calls  
8 about whether there's still the same link or a different  
9 link. Is there anything else that needs to be discussed  
11:10:55 10 today?

11 MR. BUCKI: Your Honor, if I may just clarify?  
12 So then is it true what I'm hearing that testimony from  
13 experts is scheduled to commence here on Monday,  
14 March 14th?

11:11:08 15 THE COURT: Yes, at 9:30.

16 MR. BUCKI: 9:30 a.m.?

17 THE COURT: And in my mind I'm not telling you  
18 how to present your case, but I'd like to hear your main  
19 experts. That's important to me. You call it the way  
11:11:24 20 you see it, and I don't know if discovery will yield  
21 anything or not. We really don't know.

22 MR. BUCKI: So to clarify further, Your Honor,  
23 not withstanding what may happen on appeal with respect  
24 to the discovery order, the testimony from experts will  
11:11:42 25 regardless commence on March 14th no matter what?

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11:12:14

11:12:26

THE COURT: Yes.

MR. BUCKI: Thank you.

THE COURT: Mr. Bucki raised a very good point when he was standing at the podium that, you know and I envision that one side or the other would appeal and they're saying they're going to appeal my decision on the discovery issue which may put a stay on everything here. So I mean I'll leave it to the parties to discuss how you want to deal with that. All I can tell you is my decision is by law due by April 4th, and that's where we are. I'll upload a decision on the discovery issue today, and I'll see everyone on the 14th. Thank you.  
Certified to be a true and accurate transcript.

  
Laura Bliss Power