

# EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF STEUBEN

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

Index No. E2022-0116CV

Petitioners,

-against-

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.

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**REBUTTAL EXPERT REPORT  
OF CLAUDE A. LAVIGNA  
MARCH 1, 2022**

## **Rebuttal Expert Report of Claude A. LaVigna**

### **I. Scope of Engagement**

I have been asked by counsel to review Findings Sections C (Partisan Bias) and E (Communities of Interest) of the Expert Report of Stephen Ansolabehere (“Ansolabehere Report”). I have been further asked to render such opinions relating to the 2022 state Senate and Congressional maps, 2021–2022 N.Y. Reg. Sess. Leg. Bills S.8196, A.9039-A, A.9040-A, and A.9168, enacted by the New York State Legislature and signed by Governor Kathy Hochul (respectively, “2022 Senate Map” and “2022 Congressional Map”) as needed to evaluate the Ansolabehere Report. I have also been asked to re-evaluate, if necessary, the conclusions found in the Expert Report of Claude A. LaVigna (“LaVigna Report”).

### **II. Summary of Opinions**

Respondents<sup>1</sup> expert, Dr. Stephen Ansolabehere, reaches conclusions about New York’s 2022 Congressional Map despite having no apparent knowledge of New York or New York’s political geography. Unsurprisingly, his analysis of New York’s political landscape ignores entirely the political realities of New York’s actual electorate. Dr. Ansolabehere also provides no analysis of the 2022 Senate Map.

I continue to find that the conclusions in the LaVigna Report are all correct and nothing in the Ansolabehere Report suggests otherwise.

### **III. Sources**

- 1: Election Data from the New York Board of Elections
- 2: Public Comments Submitted to the Independent Redistricting Commission
- 3: 2012 Congressional Map – Attached as Exhibit 1 to the LaVigna Report
- 4: 2022 Congressional Map – Attached as Exhibit 3 to the LaVigna Report
- 5: Expert Report of Stephen Ansolabehere
- 6: Cook Partisan Voting Index

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<sup>1</sup> Respondents are 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 E. Heastie, the New York State Board of Elections, and the New York State Legislative Task Force on Demographic Research and Reapportionment (together, “Respondents”).

#### IV. Rebuttal of the Expert Report of Stephen Ansolabehere

##### *Qualification*

It appears that Dr. Ansolabehere has no qualifications to render an expert opinion on New York's political geography or communities of interest. Neither his background nor the curriculum vitae attached to his report provides any indication of him having any knowledge about New York's political geography or New York communities of interest.

##### *Methodology*

Dr. Ansolabehere attacks the methodology I use to analyze the 2022 Congressional Map in my first report, arguing that my claims of partisanship are unsubstantiated. Ansolabehere Report ¶¶ 39–40. But my conclusions as to the partisanship of each congressional district are based upon that district's political makeup. To confirm this, I have compared these conclusions with the treatment given by the Cook Political Report, which provides a nationally accepted metric for measuring partisan lean in congressional districts, in particular. The Cook Partisan Voting Index (CPVI) is widely considered by courts, nonpartisan organizations, and redistricting experts to be a reliable measure of partisan lean in districting. *See, e.g., Benisek v. Lamone*, 348 F. Supp. 3d 493, 507 (D. Md. 2018), *vac'd on other grounds by Rucho v. Common Cause*, 139 S. Ct. 2484 (2019); *Ohio A. Philip Randolph Inst. v. Householder*, 367 F. Supp. 3d 697, 715–17 (S.D. Ohio 2019). Frequently used in partisan gerrymandering redistricting challenges, *see, e.g., Benisek*, 348 F. Supp. 3d at 507, CPVI is a particularly reliable measurement aid because it is universal for every district in the country. Accordingly, in this rebuttal report, I show that CPVI confirms all of the conclusions about the partisanship of the congressional districts in my first report.

Further, before concluding that the 2022 Congressional Map creates a partisan gerrymander with no coherent explanation except for seeking partisan and incumbent-protection advantage for the Democratic Party, I first examined whether the new district lines could be justified by valid considerations based on traditional redistricting principles, including compactness, contiguity, population shifts, and keeping counties, towns, and communities of interest together. In each district, I determined that the map drawers' choices could not reasonably be explained by reference to any consideration other than a desire to seek political advantage for Democrats. Based on my knowledge of New York's political geography and history, I concluded that numerous communities of interest were divided without valid justification—that is, divided in order to forward the political goal of favoring the Democratic Party. Many affected community

members described their historical ties and testified to their desire to be kept whole during the redistricting meetings over the last year, but the final lines do not reflect any consideration of the social landscape of the State. My knowledge of the State's unique political history and partisan trends enabled me to conclude that the 2022 Congressional Map cannot be justified by legitimate considerations, such as population shifts, keeping communities of interest whole, or the State's natural political landscape, and, thus, partisan bias is the only coherent explanation.

Instead of a standardized metric, Respondents' expert, Dr. Stephen Ansolabehere, used the data from certain statewide races in recent years and averaged these results out to produce skewed figures. Dr. Ansolabehere did not consider whether these races were representative of New York's actual turnout or candidate quality, including selecting races with strong incumbents and with under-funded challengers. This narrow approach excludes available and highly relevant data, particularly because the question at hand involves the degree of partisan bias in New York's congressional districts, as measured by the CPVI—or, indeed, as would be understood by anyone who has even a passing understanding of New York political geography.

Dr. Ansolabehere's report also reveals his utter ignorance of New York's social and political geography, as well as New York's communities of interest. Rather than analyze the many diverse and distinct communities of interest in the State, Dr. Ansolabehere divides the State into four regions and then looks at categories or "sorts of communities of interest" within each region. Ansolabehere Report ¶ 65. Unsurprisingly, this approach results in an utterly misleading and incorrect picture of New York's communities. Dr. Ansolabehere appears to lack any understanding of New York's unique political geography, and without this essential foundation, his report is not reliable.

#### *Congressional Districts 1–3*

In gerrymandering Congressional Districts 1–3, the Legislature split numerous towns, villages, and hamlets in historically connected conservative communities into multiple congressional districts with no coherent explanation except for seeking partisan and incumbent protection advantage, including by reducing competitiveness. LaVigna Report at 3–4. In particular, the Legislature placed strongly Republican areas from 2012 District 1 into the new Congressional District 2 while moving areas with high numbers of Democrats into the new District 1. *Id.* Further, the Legislature completely transformed Congressional District 3 with no coherent explanation except for Democratic partisan and incumbent-protection advantage. *Id.* at 4.

Refuting Dr. Ansolabehere’s contrary view, the CPVI strongly supports these conclusions. Congressional District 1 was a strong Republican district (Republican+6) under the 2012 Congressional Map. The CPVI metric shows that the district is now Democratic-leaning (Democratic+2) as a result of Respondents’ blatant gerrymandering under the 2022 Congressional Map. Further, District 2 also had a CPVI metric favoring Republicans under the 2012 map. By packing Republicans from District 1 into District 2, the Legislature turned District 2 from an already strong Republican district (Republican+5) into an overwhelmingly Republican stronghold (Republican+11). Finally, District 3 had a CPVI metric of Democratic+2 under the 2012 map, which reveals that the district was competitive despite Democrats ultimately winning elections. Due to the gerrymander, the Legislature transformed Congressional District 3 from a competitive district (Democratic+2) to a Democrat stronghold (Democratic+5).

	Congressional District 1	Congressional District 2	Congressional District 3
CPVI – 2012 Map	R+6	R+5	D+2
CPVI – 2022 Map	D+2	R+11	D+5
Representative	Lee Zeldin (R) (2015–present) Timothy H. Bishop (D) (2003–2015)	Andrew Garbarino (R) (2021–present) Peter T. King (R) (2013–2021)	Tom Suozzi (D) (2017–present) Steve Israel (D) (2013–2017)

Applying his flawed approach, Dr. Ansolabehere asserts that District 1 and District 2 were not Republican districts under the 2012 map but rather were Democratic-leaning. Ansolabehere Report ¶¶ 49–50. Dr. Ansolabehere also incorrectly states that the “2012 version of CD-3 was already a strong Democratic district; it was not a competitive seat.” Ansolabehere Report ¶ 52. These claims are directly contradicted by the vastly more reliable CPVI metric, as noted above. In addition, Dr. Ansolabehere’s analysis of Long Island focuses solely on political affiliation as the only commonality that can create a community of interest. Ansolabehere Report ¶¶ 72–74. But while these now-divided communities of interest are politically aligned, as the CPVI indicates, they have much more in common than political affiliation. Not only does Dr. Ansolabehere’s analysis ignore the reality that shared values and history, geography, and social and economic ties

contribute to a community of interest, he relies on incomplete political data to support his argument. He further supports his argument by describing the degree to which the Long Island districts changed from the 2012 Congressional Map, using percentages. Ansolabehere Report ¶ 72. This misleading and generalized approach entirely sidesteps any analyses of the distinct communities of interest on Long Island and ignores the important commonalities shared by neighboring towns and villages, resulting in a deeply flawed conclusion. And he apparently ignores that both Congressional District 1 and Congressional District 2 are presently represented by Republicans and have been for years.

In the 2012 Map, Brookhaven, East Islip, Manorville, South Manor, Upton, Lake Grove, Hauppauge, East Hauppauge, Southold, Shoreham, Riverhead, Smithtown, Head of the Harbor, and Nissequogue were united in District 1. These Republican-leaning communities share historical ties, industry and economic commonalities, and social values. After the Legislature's egregious gerrymander of Long Island, Brookhaven, East Islip, Manorville, South Manor, Lake Grove, East Hauppauge are broken off into District 2, shattering the shared bond of community, as well as weakening their voting power. Part of Smithtown and Nissequogue are now in District 3, splitting this once-united community of interest into three separate districts. To replace the towns and hamlets moved out of District 1, the Legislature broke up communities of interest in District 2. For example, Deer Park and Baywood were entirely shifted into District 1, while Babylon and Farmingdale were partially excised—breaking up these communities.

While some towns and hamlets with historical ties in 2012 District 3, like Dix Hills and parts of Smithtown were shifted to District 1 in the 2022 Map, the new District 3 adds back in communities in the Bronx and Westchester County that have nothing in common with the rest of District 3. In 2012 District 3, the areas of Queens joined with Nassau County had similar values and interests. Now, conservative blue-collar areas along the north shore of Long Island are connected with the affluent Democratic communities in Larchmont, Mamaroneck, Rye, New Rochelle, and part of Pelham.

#### *Congressional Districts 7–11*

In Brooklyn, the Legislature split up longstanding communities of interest in Congressional Districts 8, 9, 10, and 11 to create a partisan advantage for Democrats. The Legislature “cracked” established Orthodox Jewish and Russian communities with strong social and cultural ties, spreading these conservative Republican-leaning voters across multiple districts. The Legislature

also divided an established Asian community in District 10 by moving half of it to District 11. Previously a Republican-leaning district, the new District 11 combines Staten Island with unrelated and heavily liberal areas in Brooklyn, which fundamentally alters the political composition of this district. These redrawn Brooklyn districts have no coherent explanation except seeking partisan and incumbent-protection advantage, with bizarre boundaries that break up communities of interest and combine unrelated communities for no logical reason.

The CPVI strongly supports this characterization, illustrating how Republicans were spread across the districts in order to give Democrats a much better chance at winning District 11. The Democratic advantage in Districts 8, 9, 10 was maintained while Republicans were moved out of District 11. District 8 shifted from a Democratic+33 district to a Democratic+28 district, and District 9 shifted from a Democratic+32 district to a Democratic+28 district, while District 10 stayed a Democratic+27 district. The CPVI metric shows that District 11 shifted from a strong Republican district (Republican+7) to a Democratic district (Democratic+4).

	Congressional District 7	Congressional District 8	Congressional District 9	Congressional District 10	Congressional District 11
CPVI – 2012 Map	D+34	D+33	D+32	D+27	R+7
CPVI – 2022 Map	D+34	D+28	D+28	D+27	D+4
Representative	Nydia Velázquez (D) (2013–present)	Hakeem Jeffries (D) (2013–present)	Yvette D. Clarke (D) (2013–present)	Jerry Nadler (D) (2013–present)	Nicole Malliotakis (R) (2021–present) Max Rose (D) (2019–2021) Daniel M. Donovan (R) (2015–2019) Michael Grimm (R) (2013–2015)

In discussing Districts 7, 8, 9, 10, and 11, Dr. Ansolabehere fails to properly identify the communities of interest divided in the 2022 Map, nor does he discuss how the redrawn map broke up the Russian and Orthodox Jewish communities, Ansolabehere Report ¶¶ 75–77, despite a plethora of comments in the public hearing process that called for the unification of those



communities. *See, e.g.*, Public Comment of Nachman Mostofsky (July 28, 2021); Public Comment of Dr. Bernard Fryshman; Public Comment of Rabbi Avi Greenstein (July 29, 2021); Public Comment of David M. Pollock (July 30, 2021); Public Comment of Leon Goldenberg; Public Comment of Louis Jerome.<sup>2</sup> Dr. Ansolabehere attempts to justify this drastic partisan shift in District 11 by stating that Districts 7, 8, and 9 are majority-minority districts and “[t]heir configuration affects the configuration of [District] 10 and [District] 11.” Ansolabehere Report ¶ 54. Notably, he does not argue that the Voting Rights Act requires Districts 7, 8, and 9 to be majority-minority districts. In any event, keeping these districts as majority-minority districts does not require the Legislature to contort District 11 into its present configuration, which breaks up important communities of interest.

Dr. Ansolabehere’s description of Brooklyn belies his lack of knowledge of the history and social connections tying together communities of interest in the borough. He points to minority populations in Districts 7, 8, and 9, but fails to acknowledge the important Hispanic and Asian communities of interest in Districts 7, 10, and 11. Ansolabehere Report ¶ 76. Further, he discusses Brooklyn neighborhoods as discrete Jewish communities, failing to understand that the Jewish populations in Brooklyn share ties that stretch across connected neighborhoods. Ansolabehere Report ¶ 77. A close, New York-based examination of the 2022 Congressional Map’s effects on communities of interest in Brooklyn reveals a partisan and incumbent-protection gerrymander is the only available explanation for the new district lines. These districts illustrate why partisan data must be analyzed in the context of the local communities of interest and show how a surface analysis of past election results cannot provide a complete picture of the extent of partisan bias in redistricting maps. While District 11 is most obviously gerrymandered based on partisan data alone, the Legislature split numerous communities of interest with historical ties in Districts 8, 9, 10, and 11 in order to achieve the partisan result in District 11.

Brooklyn has one of the largest Orthodox Jewish populations in the world. Culturally, socially, spiritually, and politically, they form a community of interest. Instead of drawing district lines to reflect this, the Legislature spread this community into four separate districts, weakening their conservative votes. For example, Bensonhurst, which was previously united with Borough Park in District 10, is now split in two along 20th Avenue, dividing the community between

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<sup>2</sup> Available at [https://nyirc.gov/storage/archive/Kings\\_Richmond\\_Redacted.pdf](https://nyirc.gov/storage/archive/Kings_Richmond_Redacted.pdf).

Districts 9 and 10. In the 2012 Congressional Map, Jewish neighborhoods in Flatbush, Midwood, Park Slope, and Kensington were connected, wrapped around Prospect Park in District 9. Now, Park Slope is pulled into District 11, while Flatbush and Midwood are drawn in District 9. District 10 cuts through the center, taking Kensington and Prospect Park from the middle of this once-united community of interest.

The 2022 Congressional Map also severely divides historically united Hispanic and Asian populations in Brooklyn. Sunset Park, which has a well-established bond to Manhattan's Chinatown, was logically located in the same district in the 2012 Map—District 7. The 2022 Map cuts Sunset Park in two, placing half in District 10 and half in District 11. Further, instead of being united with Chinatown, a large portion of Sunset Park is instead linked to Staten Island—a community with which it has nothing in common.

Multiple community members expressed their desire to keep the Brooklyn's Jewish populations together, *see, e.g.*, Public Comment of Nachman Mostofsky (July 28, 2021); Public Comment of Dr. Bernard Fryshman; Public Comment of Rabbi Avi Greenstein (July 29, 2021); Public Comment of David M. Pollock (July 30, 2021); Public Comment of Leon Goldenberg; Public Comment of Louis Jerome, to keep Sunset Park whole to protect the Asian community of interest in Brooklyn, *see, e.g.*, Public Comment of Dr. Wah Lee (July 29, 2021), to keep Brooklyn's Hispanic populations together, Public Comment of Marco A. Carrión, and to keep Staten Island together with its community of interest in South Brooklyn, including the neighborhoods of Dyker Heights and Bay Ridge, *see, e.g.*, Public Comment of Brian Doherty Public; Public Comment of Barbara Slattery.<sup>3</sup>

#### *Congressional Districts 16–19*

Districts 16, 17, 18, and 19 in the 2022 Congressional Map have no coherent explanation except for seeking partisan and incumbent-protection advantage, including by reducing competitiveness. The new Congressional District 16 “cracks” Republican voters out of Congressional District 18, removing them from rural and suburban areas in northern Westchester County and Putnam County and combining them with highly urban Democratic strongholds in Mount Vernon, Yonkers, and the Bronx. The new District 16 can only be explained by seeking Democratic partisan and incumbent-protection advantage, as it connects the heavily Republican

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<sup>3</sup> Available at [https://nyirc.gov/storage/archive/Kings\\_Richmond\\_Redacted.pdf](https://nyirc.gov/storage/archive/Kings_Richmond_Redacted.pdf).

towns of Putnam Valley, Carmel, Yorktown, and Somers to densely populated Democratic communities and neutralizes these Republican voters. As a result, the new District 18 is bizarrely shaped, but the Legislature achieves its partisan goal, keeping District 16 a safe Democratic district, while maneuvering District 18 from a Republican-leaning district to a Democratic district. The new Congressional District 17 is similarly contorted to combine strong Democratic areas with unrelated, rural Republican communities, neutralizing their votes. Despite extensive public testimony asking for the region’s conservative Jewish populations—which have grown extensively and become more integrated over the last decade—to be placed together, *see, e.g.*, Public Comment of Israel Weinstock; Public Comment of Israel Hirsch, the new Map separates the Orthodox communities in Sullivan and Rockland counties from the Kiryas Joel Jewish community in Orange County. As a result, Congressional District 17 remains a reliable Democratic district. The new Congressional District 19 is drawn with each of its four corners reaching into the strongly Democratic areas, shifting the district from Republican to Democrat-leaning and adding a new county split.

The CPVI confirms this characterization of partisan bias. The CPVI metric shows that while District 16 has always been a Democratic stronghold (shifting from Democratic+25 to Democratic+18), District 17 was previously a safe Democratic district (Democratic+9) that is now slightly more competitive (Democratic+5). It is clear that by packing Republican voters into an already Democrat-controlled District 16, the Legislature has ensured that District 18 would shift from a Republican-leaning district (Republican+1) to a Democratic-leaning district (Democratic+1). Specifically, the CPVI metric shows that District 19 was a Republican+3 and is now a Democratic+1.

	Congressional District 16	Congressional District 17	Congressional District 18	Congressional District 19
CPVI – 2012 Map	D+25	D+9	R+1	R+3
CPVI – 2022 Map	D+18	D+5	D+1	D+1
Representative	Jamaal Bowman (D) (2021–present) Eliot Engel (D) (2013–2021)	Mondaire Jones (D) (2021–present) Nita Lowrey (D) (2013–2021)	Sean Patrick Maloney (D) (2013–present)	Antonio Delgado (D) (2019–present) John Faso (R) (2017–2019) Chris Gibson (R) (2013–2017)

Relying on his flawed approach, Dr. Ansolabehere argues that none of these districts leaned Republican in their 2012 configurations. Ansolabehere Report ¶¶ 56–59. While Dr. Ansolabehere states that the four towns in District 18, towns of Putnam Valley, Carmel, Yorktown, and Somers, “are not ‘Republican towns,’” Ansolabehere Report ¶ 58, he fails to recognize that in each of the four towns, there is no elected Democrat holding office on any of the town boards. Indeed, all four towns have a 5-0 makeup of Republican town boards. Further, Republican locally elected officials represent the vast majority of District 19’s counties, with the exception of Ulster. In addition to the CPVI metric, historical election data supports my conclusion that District 19 has not always been a Democratic district.

Dr. Ansolabehere’s report does not address how the 2020 Congressional Map shatters established communities of interest, which is not surprising given his utter lack of qualification to discuss New York’s communities of interest. He focuses on electoral data from Kiryas Joel and the other Jewish communities, arguing that these communities are not electorally aligned. Ansolabehere Report ¶¶ 79–81. He ignores the many other commonalities that create a community of interest and further ignores the other broken communities in the Hudson Valley districts. Specifically, the 2012 Congressional District 16 compactly connected related communities in Westchester County and the Bronx, joining Mount Vernon and Yonkers to Larchmont, Mamaroneck, Rye, New Rochelle, and Pelham—the liberal coast communities that are now connected to unrelated communities on Long Island in Congressional District 3. The new District excludes these coastal towns with historical ties to the Mount Version and Yonkers and snakes north in a narrow strip through Westchester into rural and suburban parts of Putnam County, grabbing Republican towns and villages. These areas, including the towns of Putnam, Carmel, Yorktown, and Somers, are “cracked” out of Congressional District 18 and separated from neighboring areas that share the same values, industries, history, and political interests. These conservative towns are split from the established community of interest in Putnam County—the neighboring areas of Rochester, Wawarsing, Peekskill, Cortlandt, North Salem, Lewisboro, Bedford, and Pound Ridge are separated into District 18.

While 2012 Congressional District 17 was compactly located in Rockland and Westchester counties, connecting New Yorkers with geographical, cultural, and social ties, the 2022 District 17 stretches across four counties. The rural and small-town Sullivan County and Orange County

are connected with river communities in Rockland County and Westchester County. New Yorkers in Jeffersonville, Liberty, Monticello, Chester, and Warwick have no connection with those in Greenburgh, Mount Pleasant, and Mount Kisco. In order to connect these unrelated communities, the 2022 Map divides communities of interest. The Kiryas Joel Jewish community in Orange County is cut off from the Orthodox communities in Sullivan and Rockland counties. Monroe is separated from the closely related town of Woodbury. The 2022 Map cracks these conservative communities into pieces and dilutes their voting power without any rational justification.

Multiple community members expressed the desire to place the three Jewish strongholds in the same district, *see, e.g.*, Public Comment of Israel Weinstock; Public Comment of Israel Hirsch, as well as the desire to keep rural communities together and separate from the heavily urban Democratic strongholds in Westchester County, *see, e.g.*, Public Comment of Clay Boone; Public Comment of Bill Peck; Public Comment of Cynthia Gottlieb (July 23, 2021).<sup>4</sup>

#### *Congressional Districts 21–24*

The 2022 Congressional Map breaks up rural, agrarian communities of interest in Upstate New York, dividing conservative populations in established communities into new districts with dissimilar and distant communities, with no coherent explanation except for seeking partisan and incumbent protection advantage, including by reducing competitiveness. The new Congressional District 21 “packs” Republican voters, adding Republican voters from large portions of Oneida County and Herkimer County, half of Montgomery County, and all of Schoharie County, increasing the concentration of Republican voters in the district and thus diminishing competitiveness in the surrounding districts. The Legislature “cracked” the new Congressional District 22 by removing Republican areas and adding Tompkins County, including the heavily Democratic city of Ithaca. As a result, the new District 22 shifts from a strong Republican district (Republican+9) in the 2012 court-drawn map to a safe Democratic district (Democratic+6) in the new map. The Legislature “packed” Republican voters into the new Congressional District 23, connecting the suburbs of Buffalo and other towns in southern Erie County to distant rural areas around Binghamton. As a result, Congressional District 23 is now much less competitive and has become an overwhelmingly Republican district. The Legislature similarly “packed” Republican voters into the new Congressional District 24, which stretches across four media markets,

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<sup>4</sup> Available at [https://nyirc.gov/storage/archive/Mid-Hudson\\_Capital\\_Region\\_Redacted.pdf](https://nyirc.gov/storage/archive/Mid-Hudson_Capital_Region_Redacted.pdf); [https://nyirc.gov/storage/archive/West\\_FL\\_CNY\\_ST\\_Redacted.pdf](https://nyirc.gov/storage/archive/West_FL_CNY_ST_Redacted.pdf).

connecting numerous areas over more than 250 miles with little in common, extending all the way from Lewiston, in Niagara County eastward and northward into Jefferson County (all the way to the St. Lawrence County line), targeting Republican voters. As a result, Congressional District 24 is now overwhelmingly Republican.

Again, the CPVI metric supports the conclusion that partisan and incumbent protection are the only available justification for the new district lines. Congressional District 21 shifted from a Republican+8 district to a much less competitive Republican+12 district. The new District 22 has shifted from a strong Republican district (Republican+9) in the 2012 court-drawn map to a safe Democratic district (Democratic+6) in the new map. The new District 23 has shifted from a Republican+9 district to a Republican+14 district. Finally, the new District 24 transforms from a highly competitive Democratic+2 district into a Republican+14 district, designed to protect the neighboring districts from any serious Republican challenge.

	Congressional District 21	Congressional District 22	Congressional District 23	Congressional District 24
CPVI – 2012 Map	R+8	R+9	R+9	D+2
CPVI – 2022 Map	R+12	D+6	R+14	R+14
Representative	Elise Stefanik (R) (2015–present) Bill Owens (D) (2013–2015)	Claudia Tenney (R) (2021–present, 2017–2019) Anthony Brindisi (D) (2019–2021) Richard L. Hanna (R) (2013–2017)	Tom Reed (R) (2013–present)	John Katko (R) (2015–present) Dan Maffei (D) (2013–2015)

Again, Dr. Ansolabehere applies his flawed metric and focuses on percentages, stating that Districts 21, 22, 23, and 24 have changed very little. Ansolabehere Report ¶ 70. Again, this approach ignores the region’s political geography and the unique communities of interest that are shattered in the new Map. For example, while Dr. Ansolabehere claims that District 22 is a Democratic district when comparing it with the configuration of District 24 in 2012, Ansolabehere Report ¶¶ 60–61, he fails to consider that a Republican congresswoman was in office in this district for most of the past decade. Dr. Ansolabehere’s report fails to address Districts 21, 23, and 24 and ignores how the 2022 Congressional Map breaks up numerous communities of interest with

historical and industrial ties in the Upstate region, despite voluminous public testimony arguing against this.

Multiple community members expressed their desire to keep rural areas in the region together in their historical communities, with many emphatic comments stressing that the Southern Tier should not be joined with Buffalo and Erie County. *See, e.g.*, Public Comment of Ben Schenk; Public Comment of Ben Troché (Aug. 13, 2021); Brent Ellis (Aug. 13, 2021); Brian Abram (Aug. 13, 2021); Dalton Anthony (Aug. 13, 2021).<sup>5</sup>

Dated: SUKKOTSLAND, New York

March 1, 2022



CLAUDE A. LAVIGNA

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<sup>5</sup> Available at [https://nyirc.gov/storage/archive/West\\_FL\\_CNY\\_ST\\_Redacted.pdf](https://nyirc.gov/storage/archive/West_FL_CNY_ST_Redacted.pdf).