

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF STEUBEN

-----X
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
VOLANTE,

Index No. E2022-0116CV

**ANSWER AND
COUNTERSTATEMENT**

Petitioners,

-against-

GOVERNOR KATHY HOCUL, 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.

-----X
Respondents Senate Majority Leader and President *Pro Tempore* of the Senate Andrea
Stewart-Cousins and the New York State Senate Majority’s appointees to the New York State
Legislative Task Force on Demographic Research and Reapportionment (“LATFOR”), by and
through their attorneys, Cuti Hecker Wang LLP, as and for their Answer and Counterstatement
to the Petition, allege as follows:

1. Deny the allegations set forth in paragraph 1.
2. Deny the allegations set forth in paragraph 2, except admit that article III, sections
4 and 5 of the New York Constitution were amended to create the New York State Independent
Redistricting Commission (the “Commission”) to participate in the redistricting process.

3. Deny the allegations set forth in paragraph 3. Any submissions made in prior lawsuits speak for themselves.
4. Deny the allegations set forth in paragraph 4.
5. Deny the allegations set forth in paragraph 5, except admit that a constitutional amendment related to the redistricting process was not approved by voters in the November 2021 election.
6. Deny the allegations set forth in paragraph 6.
7. Paragraph 7 calls for a conclusion of law as to which no response is required.
8. Deny the allegations set forth in paragraph 8.
9. Deny the allegations set forth in paragraph 9.
10. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 10.
11. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 11.
12. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 12.
13. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 13.
14. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 14.
15. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 15.

16. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 16.

17. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 17.

18. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 18.

19. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 19.

20. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 20.

21. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 21.

22. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 22.

23. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 23.

24. Admit the allegations set forth in paragraph 24.

25. Admit the allegations set forth in paragraph 25.

26. Admit the allegations set forth in paragraph 26.

27. Admit the allegations set forth in paragraph 27.

28. Admit the allegations set forth in paragraph 28.

29. Admit the allegations set forth in paragraph 29 concerning LATFOR's principal place of business. Paragraph 29 otherwise calls for a conclusion of law as to which no response is required.

30. Paragraph 30 calls for conclusions of law as to which no response is required.

31. Paragraph 31 calls for conclusions of law as to which no response is required.

32. Admit the allegations in paragraph 32.

33. Paragraph 33 calls for conclusions of law as to which no response is required.

34. Deny the allegations set forth in paragraph 34, except admit that the schedule and deadlines for elections in New York are governed by N.Y. Election Law, sections 6-100 *et seq.*, and respectfully refer to those statutes for their terms.

35. Deny the allegations set forth in paragraph 35 to the extent the allegations suggest that the Legislature is no longer primarily responsible for redistricting. Admit that the New York Legislature was, and remains, primarily responsible for enacting redistricting legislation.

36. Admit that LATFOR worked with the Legislature to prepare redistricting maps as alleged in paragraph 36.

37. Deny the allegations set forth in paragraph 37, except admit that LATFOR was established in 1978 and consists of six members, four of whom are legislators and two of whom are non-legislators, and that LATFOR's members are appointed as alleged.

38. Deny the allegations set forth in paragraph 38.

39. Deny the allegations set forth in paragraph 39.

40. Deny the allegations set forth in paragraph 40, except admit that the New York Constitution and federal law require consideration of multiple factors in the redistricting process.

41. Paragraph 41 calls for a conclusion of law as to which no response is required.

42. Deny the allegations set forth in paragraph 42.
43. Deny the allegations set forth in paragraph 43.
44. Admit the allegations set forth in paragraph 44.
45. Deny the allegations set forth in paragraph 45.
46. Deny the allegations set forth in paragraph 46, except admit that the commissioners of the Commission are appointed as set forth in this paragraph.
47. Paragraph 47 calls for conclusions of law as to which no response is required.
48. Deny that “[f]ive members of the IRC constitute a quorum.” Article II, section 5-b(f) of the New York Constitution provides that, after the final two commissioners have been appointed by the other Commission members, a minimum of seven commissioners is required to form a quorum. Paragraph 48 otherwise calls for conclusions of law as to which no response is required.
49. Paragraph 49 calls for conclusions of law as to which no response is required.
50. Paragraph 50 calls for conclusions of law as to which no response is required.
51. Deny the allegations set forth in paragraph 51.
52. Paragraph 52 calls for conclusions of law as to which no response is required.
53. Deny the allegations set forth in paragraph 53, except admit that article III of the New York Constitution requires that the Legislature consider certain factors in the redistricting process.
54. Deny the allegations set forth in paragraph 54 to the extent that facts are alleged therein. Paragraph 54 otherwise calls for conclusions of law as to which no response is required.
55. Deny the allegations set forth in paragraph 55.

56. Deny the allegations set forth in paragraph 56, except admit that a ballot proposal submitted to voters in November 2021 contained multiple provisions, including the provision set forth in paragraph 56.

57. Deny the allegations set forth in paragraph 57, except admit that the Legislature enacted and the Governor signed into law an amendment to chapter 17 of the laws of 2012 pertaining to the redistricting process, and respectfully refer to the legislation for its terms.

58. Deny the allegations set forth in paragraph 58.

59. Respondents respectfully refer to the article and judicial decision referenced for their contents.

60. Deny the allegations set forth in paragraph 60.

61. Admit that between 2010 and 2020 the population within New York's congressional districts changed. Paragraph 61 otherwise calls for conclusions of law as to which no response is required.

62. Admit the allegations set forth in paragraph 62.

63. Admit that the 2012 congressional map does not comply with the current population target for congressional districts. Paragraph 63 otherwise calls for a conclusion of law as to which no response is required.

64. Paragraph 64 calls for a conclusion of law as to which no response is required.

65. Admit the allegations set forth in paragraph 65.

66. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 66, except admit that the current population of Congressional District 23, as drawn following the 2010 decennial census, has 83,462 residents fewer than the population goal, which represents a -10.7% deviation.

67. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 67, except admit that the current population of Congressional District 22, as drawn following the 2010 decennial census, has 80,361 fewer residents than the population goal, which represents a -10.3% deviation.

68. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 68, except admit that the population of Congressional District 19, as drawn following the 2010 decennial census, has 78,298 fewer residents than the population goal, which represents a -10.1% deviation.

69. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 69, except admit that the population of Congressional District 24, as drawn following the 2010 decennial census, has 59,664 fewer residents than the population goal, which represents a -7.7% deviation.

70. Admit that New York received 27 congressional seats after the 2010 census and 26 congressional seats after the 2020 census. Paragraph 70 otherwise calls for a conclusion of law as to which no response is required.

71. Admit the allegations set forth in paragraph 71.

72. Paragraph 72 calls for a conclusion of law as to which no response is required.

73. Deny the allegations set forth in paragraph 73.

74. Admit the allegations set forth in paragraph 74.

75. Deny the factual allegations set forth in paragraph 75, except admit that the listed individuals are commissioners of the Commission. Paragraph 75 otherwise calls for a conclusion of law as to which no response is required.

76. Deny the factual allegations set forth in paragraph 76, except admit that the listed individuals are commissioners of the Commission. Paragraph 76 otherwise calls for a conclusion of law as to which no response is required.

77. Deny the allegations set forth in paragraph 77.

78. Deny the allegations set forth in paragraph 78, except admit that the Legislature timely allocated \$1 million to the Commission in the 2020 budget and \$4 million to the Commission in the 2021 budget. Any delays in the Commission receiving these appropriated funds were not caused by the Legislature.

79. Deny the allegations set forth in paragraph 79. The Commission began a series of hearings to solicit public testimony about the redistricting process on July 20, 2021.

80. Admit the allegations set forth in paragraph 80.

81. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 81.

82. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 82, except admit that Commission Chair Imamura publicly stated that he did not see the Commission's decision to publish separate maps on September 15, 2021 as indicating an inability to reach agreement later.

83. Deny the allegations set forth in paragraph 83, except admit that the Commission held a total of 24 public hearings to solicit input regarding the redistricting process and also solicited written input from the public regarding the redistricting process.

84. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 84.

85. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 85.

86. Deny the allegations set forth in paragraph 86, except admit that following the public comment period, the Commission scheduled meetings to negotiate and finalize a single set of maps to submit to the Legislature.

87. Deny the allegations set forth in paragraph 87.

88. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 88.

89. Deny the allegations set forth in paragraph 89.

90. Admit the allegations set forth in paragraph 90.

91. Deny the allegations set forth in paragraph 91.

92. Deny the allegations set forth in paragraph 92, except admit that the Commission voted on two redistricting plans on January 3, 2022.

93. Admit the allegations set forth in paragraph 93.

94. Deny the allegations set forth in paragraph 94.

95. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 95.

96. Admit that Commission Plan A and Commission Plan B each received the number of votes set forth in paragraph 96. The statements of individual Senators during the legislative debate speak for themselves. Deny the truth of the statement allegedly made by Senator Andrew Lanza.

97. Admit the allegations set forth in paragraph 97.

98. Paragraph 98 calls for a conclusion of law as to which no response is required.

99. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 99, except deny that Democratic members of the Commission refused to meet or discuss bipartisan maps.

100. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 100.

101. Admit the allegations set forth in paragraph 101.

102. Deny the allegations set forth in paragraph 102, except admit that Commissioner Martins issued a statement on January 24, 2021.

103. Deny the factual allegations set forth in paragraph 103, except admit that the Commission did not submit a second redistricting plan or plans to the Legislature for a vote as set forth in paragraph 103. Paragraph 103 otherwise calls for a conclusion of law as to which no response is required.

104. Deny the allegations set forth in paragraph 104.

105. Deny the allegations set forth in paragraph 105.

106. Deny the allegations set forth in paragraph 106.

107. Deny the allegations set forth in paragraph 107, except admit that the Legislature released its congressional redistricting map on January 30, 2022, and that the Legislature voted on the map without conducting additional public hearings due to approaching election deadlines.

108. Deny the allegations set forth in paragraph 108.

109. Deny the allegations set forth in paragraph 109.

110. Deny the allegations set forth in paragraph 110.

111. Deny the allegations set forth in paragraph 111.

112. Deny the allegations set forth in paragraph 112. The cited *New York Daily News* article speaks for itself with regard to any quotes contained therein.

113. Deny the allegations set forth in paragraph 113.

114. Deny the allegations set forth in paragraph 114.

115. Deny the allegations set forth in paragraph 115.

116. Deny the allegations set forth in paragraph 116.

117. Deny the allegations set forth in paragraph 117.

118. Deny the allegations set forth in paragraph 118.

119. Deny the allegations set forth in paragraph 119.

120. Deny the allegations set forth in paragraph 120.

121. Deny the allegations set forth in paragraph 121.

122. Deny the allegations set forth in paragraph 122.

123. Deny the allegations set forth in paragraph 123.

124. Deny the allegations set forth in paragraph 124.

125. Deny the allegations set forth in paragraph 125.

126. Deny the allegations set forth in paragraph 126.

127. Deny the allegations set forth in paragraph 127.

128. Deny the allegations set forth in paragraph 128.

129. Deny the allegations set forth in paragraph 129, except deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegation that Assemblymember Marcela Mitaynes made the quoted statement during legislative debate in the Assembly.

130. Deny the allegations set forth in paragraph 130.

131. Deny the allegations set forth in paragraph 131.
132. Deny the allegations set forth in paragraph 132.
133. Deny the allegations set forth in paragraph 133.
134. Deny the allegations set forth in paragraph 134.
135. Deny the allegations set forth in paragraph 135.
136. Deny the allegations set forth in paragraph 136.
137. Deny the allegations set forth in paragraph 137.
138. Deny the allegations set forth in paragraph 138.
139. Deny the allegations set forth in paragraph 139.
140. Deny the allegations set forth in paragraph 140.
141. Deny the allegations set forth in paragraph 141.
142. Deny the allegations set forth in paragraph 142, except admit that Congressional District 17 was previously located in Rockland and Westchester counties.
143. Deny the allegations set forth in paragraph 143, except admit that District 17 was adjusted to include parts of Sullivan, Orange, Rockland and Westchester counties.
144. Deny the allegations set forth in paragraph 144, except admit that District 17 includes part of White Plains.
145. Deny the allegations set forth in paragraph 145, except admit that District 17 unites communities of interest.
146. Deny the allegations set forth in paragraph 146.
147. Deny the allegations set forth in paragraph 147.
148. Deny the allegations set forth in paragraph 148.
149. Deny the allegations set forth in paragraph 149.

150. Deny the allegations set forth in paragraph 150.
151. Deny the allegations set forth in paragraph 151, except admit that Binghamton is located in Congressional District 19.
152. Deny the allegations set forth in paragraph 152, except admit that Utica is located in Congressional District 19.
153. Deny the allegations set forth in paragraph 153.
154. Deny the allegations set forth in paragraph 154.
155. Deny the allegations set forth in paragraph 155.
156. Deny the allegations set forth in paragraph 156.
157. Deny the allegations set forth in paragraph 157.
158. Deny the allegations set forth in paragraph 158.
159. Deny the allegations set forth in paragraph 159, except admit that Congressional District 23 includes suburbs of the city of Buffalo.
160. Deny the allegations set forth in paragraph 160.
161. Deny the allegations set forth in paragraph 161.
162. Deny the allegations set forth in paragraph 162, except admit that Congressional District 24 previously included Wayne, Cayuga, and Onondaga Counties, as well as part of Oswego County.
163. Deny the allegations set forth in paragraph 163, except admit that Congressional District 24 includes Lewiston, part of Erie County, and part of Jefferson County.
164. Deny the allegations set forth in paragraph 164.
165. Deny the allegations set forth in paragraph 165.
166. Deny the allegations set forth in paragraph 166.

167. Deny the allegations set forth in paragraph 167, except admit that the Legislature voted to approve the congressional map on February 2, 2022.

168. Deny the allegations set forth in paragraph 168, except admit that Republican legislators and Assemblymembers Simcha Eichenstein and Marcela Mitaynes voted against the congressional map.

169. Deny the allegations set forth in paragraph 169.

170. Deny the allegations set forth in paragraph 170. To the extent that paragraph 170 purports to quote from news articles or comments on the Commission's website, such articles or comments speak for themselves.

171. Deny the allegations set forth in paragraph 171. To the extent that paragraph 171 purports to quote from news articles, such articles speak for themselves.

172. Deny the allegations set forth in paragraph 172. To the extent that paragraph 172 purports to quote from news articles, such articles speak for themselves.

173. Deny the allegations set forth in paragraph 173, except admit that Governor Hochul signed the congressional redistricting plan into law on February 3, 2022.

174. Deny the allegations set forth in paragraph 174, except deny knowledge or information sufficient to form a belief as to what Petitioners want as set forth in paragraph 174.

175. Deny the allegations set forth in paragraph 175.

176. Deny the allegations set forth in paragraph 176.

177. Admit that voters should choose their elected representatives as set forth in paragraph 177.

178. Deny the allegations set forth in paragraph 178.

179. Deny the allegations set forth in paragraph 179.

180. Deny the allegations set forth in paragraph 180.

181. Deny the allegations set forth in paragraph 181, except deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations regarding where certain Petitioners reside.

182. Deny the allegations set forth in paragraph 182, except deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations regarding where certain Petitioners reside.

183. Deny the allegations set forth in paragraph 183, except deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations regarding where certain Petitioners reside.

184. Deny the allegations set forth in paragraph 184, except deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations regarding where certain Petitioners reside.

185. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 185.

186. Respondents repeat and incorporate their responses to paragraphs 1-185.

187. Paragraph 187 calls for a conclusion of law as to which no response is required.

188. Paragraph 188 calls for a conclusion of law as to which no response is required.

189. Paragraph 189 calls for a conclusion of law as to which no response is required.

190. Deny the allegations set forth in paragraph 190.

191. Deny the allegations set forth in paragraph 191, except admit that the Commission did not send a second proposed plan or plans for a vote by the Legislature within fifteen days of the Legislature's rejection of the first proposed plans.

192. Deny the allegations set forth in paragraph 192.
193. Deny the allegations set forth in paragraph 193.
194. Deny the allegations set forth in paragraph 194.
195. Deny the allegations set forth in paragraph 195.
196. Deny the allegations set forth in paragraph 196, except to the extent that paragraph 196 calls for a conclusion of law as to which no response is required.
197. Deny the allegations set forth in paragraph 197, except to the extent that paragraph 197 calls for a conclusion of law as to which no response is required.
198. Respondents repeat and incorporate their responses to paragraphs 1-197.
199. Paragraph 199 calls for a conclusion of law as to which no response is required.
200. Paragraph 200 calls for a conclusion of law as to which no response is required.
201. Paragraph 201 calls for a conclusion of law as to which no response is required.
202. Deny the allegations set forth in paragraph 202, except to the extent that paragraph 202 calls for a conclusion of law as to which no response is required.
203. Deny the allegations set forth in paragraph 203, except to the extent that paragraph 203 calls for conclusions of law as to which no response is required.
204. Paragraph 204 calls for conclusions of law as to which no response is required.
205. Paragraph 205 calls for a conclusion of law as to which no response is required.
206. Paragraph 206 calls for a conclusion of law as to which no response is required.
207. Paragraph 207 calls for conclusions of law as to which no response is required.
208. Respondents repeat and incorporate their responses to paragraphs 1-207.
209. Paragraph 209 calls for a conclusion of law as to which no response is required.
210. Paragraph 210 calls for a conclusion of law as to which no response is required.

211. Paragraph 211 calls for a conclusion of law as to which no response is required.
212. Paragraph 212 calls for a conclusion of law as to which no response is required.
213. Deny the allegations set forth in paragraph 213.
214. Deny knowledge or information sufficient to form a belief about the truth or falsity of the allegations set forth in paragraph 214, and respectfully refer to the document referenced for its contents.
215. Deny the allegations set forth in paragraph 215, except to the extent that paragraph 215 calls for conclusions of law as to which no response is required.
216. Respondents repeat and incorporate their responses to paragraphs 1-215.
217. Paragraph 217 calls for a conclusion of law as to which no response is required.
218. Admit the allegations set forth in paragraph 218.
219. Paragraph 219 calls for conclusions of law as to which no response is required.
220. Deny the allegations set forth in paragraph 220.
221. Deny the allegations set forth in paragraph 221, except to the extent that paragraph 221 calls for conclusions of law as to which no response is required.
222. Deny the allegations set forth in paragraph 222.
223. Paragraph 223 calls for a conclusion of law as to which no response is required.
224. Deny the allegations set forth in paragraph 224.
225. Deny the allegations set forth in paragraph 225.
226. Paragraph 226 calls for conclusions of law as to which no response is required.

COUNTERSTATEMENT OF FACTS

Changes in the Population of New York State Since the 2010 Census, Which Varied Across Regions, Together with a Decrease in the Size of New York's Congressional Delegation, Necessitated Significant Changes to the Congressional Map

227. Every ten years, New York must reapportion its congressional districts to account for population changes documented in the decennial census.

228. Federal law requires that there be zero population deviation across every congressional district. Accordingly, the population in each congressional district can vary by no more than one resident.

229. The 2010 decennial census reported that New York had 19,378,102 residents.

230. The 2020 decennial census reported that New York has 20,201,249 residents.

231. The 2022 reapportionment of congressional districts therefore required accommodating a statewide population increase of 823,147 people.

232. Based on the nationwide results of the 2020 decennial census, the New York congressional delegation was reduced from 27 districts to 26 districts.

233. Each of the 27 congressional districts in the 2012 congressional redistricting plan had to contain within one voter of 717,707 New York residents.

234. Each of the 26 congressional districts in the 2022 congressional redistricting plan must contain 776,971 residents, with a margin of one resident.

235. Because each existing congressional district had to gain, on average, tens of thousands of people, the congressional map had to change significantly within and between districts.

236. Moreover, the increase in population that New York experienced between 2010 and 2020 was not evenly distributed throughout New York State.

237. The downstate areas of New York – including New York City and Long Island – experienced significant population growth during the last decade.

238. The total population of the five counties within New York City increased by 629,057 people from 2010 to 2020, from 8,175,133 to 8,804,190. This represented a 7.7% increase in total population.

239. When New York City is combined with Nassau, Suffolk, and Westchester Counties – together, the eight southernmost counties in New York State – the total population of the downstate region increased by 773,213 from 2010 to 2020, from 11,957,128 to 12,730,341. This represented a 6.5% increase in the total population of the downstate region.

240. Because the target congressional district size for New York under the 2020 census is 776,971 people, the population growth that the downstate region experienced between 2010 and 2020 constituted nearly an entire additional congressional district.

241. New York's upstate region covers a significantly larger area geographically than downstate, but its population is highly dispersed.

242. All of New York's counties with fewer than 200,000 people are located in the Hudson Valley or upstate regions.

243. Of the 62 counties in New York, 44 counties have a population of less than 200,000 people.

244. These 44 counties presently contain a total population of 3,250,015. That reflects a population decrease of 83,403 people since the 2010 census.

245. Not counting Richmond County, which is part of New York City, eight counties in New York have a population of between 200,000 and 500,000 people.

246. Those eight counties increased in population by only 83,042 between 2010 and 2020.

247. Thus, among the 52 least populous counties in New York outside of New York City, there was almost no change in total population between 2010 and 2020.

248. The two counties in New York with a population between 500,000 and 1,000,000 – Erie County and Monroe County – gained a total of 50,295 people between 2010 and 2020.

249. Given these statistics, nearly all of New York's population gain during the last decade is attributable to a small percentage of its counties, and nearly all of the population gain is attributable to the eight counties comprising the downstate region.

250. New York's registered Democrats are concentrated most heavily in New York City and its suburbs and in other urban centers throughout the State. These are the areas that experienced the greatest population gains over the last ten years.

251. New York's registered Republicans are concentrated most heavily in the upstate region and in rural areas throughout the State that lost population over the last ten years.

252. These population shifts significantly constrain the range of choices available with respect to a new congressional plan.

253. These population shifts have partisan consequences that arise from the fact that Republican-dominated counties lost substantial population relative to Democrat-dominated counties.

254. The reapportionment process is also affected by New York's unique geography.

255. New York City and Long Island together comprise approximately 58% of the State's total population and have experienced most of the State's population growth since 2010.

256. The physical narrowing of the land where Bronx County connects to Westchester County creates a bottleneck through which districts must expand to the north to accommodate population growth in New York City and Long Island to account for population loss in the upstate region.

257. As discussed below, this physical bottleneck, the strict population equality requirement, and the requirement that minority voting strength not be diluted all significantly constrain the range of choices available with respect to a new congressional plan.

Federal Law and the New York Constitution Require Numerous Disparate and Often Competing Factors to Be Balanced When Reapportioning Legislative Districts

258. Because of the requirements expressly enumerated in the New York Constitution and the judicial precedents interpreting various federal and state constitutional and statutory requirements for redistricting, the task of reapportioning New York's congressional districts requires adhering to and balancing numerous often competing principles.

259. Federal law and the New York Constitution both require the protection of minority voting rights.

260. Section 2 of the Voting Rights Act prohibits voting practices or procedures that discriminate on the basis of race, color, or language minority. 52 U.S.C. § 10301.

261. Article III, section 4 of the Constitution provides that those drawing district lines “shall consider whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights.”

262. Article III, section 4 further provides that “[d]istricts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less

opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.”

263. Article III, section 4 of the New York Constitution also imposes additional requirements.

264. Article III, section 4(c)(3) requires that each district must “consist of contiguous territory.”

265. Article III, section 4(c)(4) requires that each district must “be as compact in form as practicable.”

266. Article III, section 4(c)(5) requires 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.”

267. Article III, section 4(c)(5) requires the consideration of “the maintenance of cores of existing districts.”

268. Article III, section 4(c)(5) requires the consideration of “pre-existing political subdivisions, including counties, cities, and towns.”

269. Article III, section 4(c)(5) further requires the consideration of “communities of interest.”

270. Any fair evaluation of a reapportionment plan must recognize the complexity of balancing these disparate constitutional and statutory factors and applying them to the realities of New York’s population size, the distribution of its population, and its unique geography.

271. Petitioners present an array of criticisms of particular districts in the enacted congressional plan, but their criticisms disregard the interconnections between and among districts and regions that naturally constrain the range of available choices – including, for

example, the basic fact that substantially increasing the population of one district, which the new census data requires for nearly all previously existing districts, necessarily affects the areas that are available to include in surrounding districts.

272. Petitioners' criticisms of particular districts in the enacted congressional plan are frequently internally inconsistent and/or inconsistent across districts.

273. Petitioners' claim that the enacted congressional reapportionment plan is unconstitutionally partisan is false.

274. As detailed below, many of Petitioners' factual allegations are simply false; others ignore how the reapportionment process works, the full range of factors the Legislature was required to consider, and the neutral principles that support the creation of each enacted district; and still others are premised upon self-serving and undefined metrics that inaccurately characterize the political effects of the enacted congressional plan.

275. A proper assessment of the enacted congressional plan confirms that it is not unlawful in whole or in part.

Districts 1, 2, and 3 in Long Island, Queens, the Bronx, and Westchester Are Not Unlawful

276. A fair assessment of the congressional districts in Long Island and Westchester requires that Districts 1, 2, and 3 be considered together.

277. The federal equal population rule required the population of former District 1 to be increased by 36,652 people.

278. The federal equal population rule required the population of former District 2 to be increased by 48,815 people.

279. The federal equal population rule required the population of former District 3 to be increased by 37,774 people.

280. District 1 in the enacted congressional plan preserves the core of the prior district. 56% of the old District 1 is in the new District 1.

281. District 2 unites communities of interest along the South Shore of Long Island that previously had been separated, including areas along the southern bays and barrier islands that experience similar environmental issues. The district unites significant parts of the Town of Islip and the Town of Babylon and unites those populations with similar South Shore communities in the Town of Brookhaven.

282. District 1 unites communities of interest along the North Shore of Long Island.

283. District 1 maintains a connection between communities of interest in Babylon and Islip, which had been united under the previous map.

284. District 1 continues to unite growing populations of Central American immigrants in Flanders, Riverside, and Riverhead with similar communities in Babylon and Islip. These communities share a common language and share common interests and needs.

285. District 1 reflects public testimony before the Commission that advocated for a congressional district that continues to unite Brookhaven National Laboratory with SUNY Stony Brook, two major research centers in Suffolk County of national significance.

286. Petitioners allege falsely that the reapportionment “effectively flipped” District 1 from a “strong Republican district” to “a lean Democratic district.”

287. Former District 1 was not a “strong Republican district.” It was and remains a highly competitive district.

288. During the first congressional election in District 1 after the 2012 redistricting, a Democrat was elected.

289. Petitioners also criticize the reapportionment of District 3, but in doing so, they ignore the redistricting requirements and principles that had to be applied and balanced in devising the congressional plan as a whole.

290. District 3 is now shaped differently than it was in 2012, but that change is consistent with the neutral application of a variety of competing redistricting principles.

291. More than 70% of the population of old District 3 remains in new District 3.

292. The requirement that substantial population be added to Districts 1 and 2 unavoidably required moving those districts westward toward New York City.

293. District 3 therefore necessarily had to shift to its west as well.

294. District 3 could not be shifted to its south without causing District 4 to shift to its west.

295. Shifting District 4 to its west would have required moving substantial minority population out of District 5 into District 4.

296. Removing substantial minority population from District 5 would have implicated concerns about diluting minority voting strength because District 5 was and remains a district in which minority voters have the opportunity to elect the candidate of their choice.

297. The incumbent Member of Congress representing District 5, Gregory Meeks, is African-American.

298. Removing substantial population out of District 5 also would have disturbed the core of that district.

299. Shifting District 3 to its west, and not to its south, avoided removing substantial minority population from District 5.

300. Because it was necessary to add 268,272 people to District 3 from outside of Nassau or Suffolk Counties, and because District 3, like all districts, must be contiguous, District 3 had to shift to the west into Queens.

301. The communities in Queens that are included in new District 3 are similar in character to the Nassau communities just across the Nassau-Queens border.

302. Because it was necessary to add 268,272 people to District 3, its westward expansion could not stop in eastern Queens.

303. Shifting District 3 into the heart of Queens would have required removing substantial Asian population from District 6.

304. Removing substantial minority population from District 6 would have implicated concerns about diluting minority voting strength because District 6 was and remains a district in which minority voters have the opportunity to elect the candidate of their choice.

305. The incumbent Member of Congress representing District 6, Grace Meng, is Asian-American.

306. District 6 is the only district in New York represented by an Asian-American.

307. Removing more population from District 6 than was necessary would have disturbed the core of that district.

308. The only way to add the additional population to District 3 that was required without removing substantial minority population from District 5 or District 6 and substantially disturbing the cores of those districts was to shift District 3 to its west through northern Queens and into the Bronx.

309. Shifting District 3 into the Bronx implicates concerns about diluting minority voting strength because each of the existing districts located wholly or partially in the Bronx,

Districts 13, 14, 15, and 16, were and remain districts in which minority voters have the opportunity to elect the candidate of their choice.

310. The incumbent Member of Congress representing District 13, Adriano Espaillat, is Hispanic.

311. The incumbent Member of Congress representing District 14, Alexandria Ocasio-Cortez, is Hispanic.

312. The incumbent Member of Congress representing District 15, Ritchie Torres, is Hispanic.

313. The incumbent Member of Congress representing District 16, Jamaal Bowman, is African-American.

314. The Westchester communities that have been included in District 3 share significant interests with the Nassau and Suffolk communities that are in District 3. Among other common interests, all of these communities are located on or near the Long Island Sound and thus share common interests with respect to coastal management, interests that many believe are becoming more vital due to climate change and that are directly affected by the work of the Army Corps of Engineers and other federal resources and policies relating to environmental issues.

315. The Bronx population that has been included in District 3 enables District 3 to reach communities of interest in Westchester contiguously.

316. Given that removing substantial minority population from Districts 13, 14, 15, or 16 would have implicated concerns about diluting minority voting strength, and given that the suburban communities along the Long Island Sound in Nassau and Suffolk counties share vital interests with the suburban communities along the Long Island Sound in Westchester, filling

District 3 with the additional population that was required by joining the Nassau shore suburbs with Westchester shore suburbs does not reflect any unlawful purpose.

317. The shape of new District 3 is similar to the shape of the district in a map created by the Unity Coalition, a consortium of organizations and advocates focused on issues concerning the preservation and protection of minority voting rights in New York City.

Districts 8, 9, 10, and 11 in New York City Are Not Unlawful

318. Petitioners' allegations regarding Districts 8, 9, 10, and 11 rest on false claims about these communities and ignore the complexities that redrawing these districts necessarily required.

319. The federal equal population rule required the population of former District 8 to be reduced by 27,429 people.

320. The federal equal population rule required the population of former District 9 to be increased by 21,129 people.

321. The federal equal population rule required the population of former District 10 to be reduced by 26,832 people.

322. The federal equal population rule required the population of former District 11 to be increased by 10,735 people.

323. Adding or removing the required population to or from any one of these neighboring districts necessarily affected the ability to adjust population in the others.

324. Because substantial population had to be adjusted in each of these districts, and because adjusting the population of each district affected the ability to adjust the population of the others, Districts 8, 9, 10, and 11 necessarily look different than they did under the prior plan.

325. The reapportionment of Districts 8, 9, 10, and 11 nevertheless preserved the cores of the prior districts and continued to unite nearly all of the communities of interest that were united under the prior plan, while also uniting communities of interest that had been separated under prior plans.

326. Petitioners' allegation that these districts cross "multiple bodies of water" ignores that the reapportionment of Districts 8, 9, 10, and 11 maintains the same number of water crossings that previously existed in this part of New York City.

327. Petitioners challenge what they describe as "vertical stripes" across southern Brooklyn, which they falsely suggest reflects changes that result from partisan intent.

328. In fact, the shapes of reapportioned Districts 8, 9, and 10 are substantially similar to the prior shapes of those districts. As explained below, the changes to District 11 reflect in part the changes to Districts 8, 9, and 10 that were necessitated by the need to adjust population in those districts and unite communities of interest.

329. District 8 is now more compact than its predecessor and is now located wholly within Brooklyn.

330. Moreover, District 8 experienced some of the most substantial gentrification within New York City over the past decade.

331. This gentrification implicates concerns about diluting minority voting strength because District 8 was and remains a district in which minority voters have the opportunity to elect the candidate of their choice.

332. The incumbent Member of Congress representing District 8, Hakeem Jeffries, is African-American.

333. District 9 also was and remains a district in which minority voters have the opportunity to elect the candidate of their choice.

334. The incumbent Member of Congress representing District 9, Yvette Clarke, is African-American.

335. Reconfiguring Districts 8 and 9 also had implications for nearby District 7, which was and remains a district in which minority voters have the opportunity to elect the candidate of their choice.

336. The incumbent Member of Congress representing District 7, Nydia Velazquez, is Hispanic.

337. Ignoring the substantial concern that Districts 8 and 9 had to be reconfigured in a manner that did not dilute minority voting strength, Petitioners complain that District 8 allegedly divides Orthodox Jewish and Russian-speaking people into different districts.

338. It is unclear whether Petitioners allege that Orthodox Jewish people should have been kept together with Russian-speaking people, or that Orthodox Jewish people should have been kept together with Orthodox Jewish people and that Russian-speaking people should have been kept together with Russian-speaking people.

339. District 8 united the majority of Russian-speaking people in South Brooklyn into one district, unlike the 2012 plan, which divided Russian-speaking people across three districts.

340. Petitioners' claim regarding the Orthodox Jewish community is similarly misplaced.

341. Brooklyn contains numerous different Orthodox Jewish communities. These communities share much in common, but they are also distinct in the languages they speak, the

regions of the world from which they immigrated, the nature and degree of their religious observance, and in other ways.

342. The reapportionment of Districts 8 and 9 maintained the pre-existing split of the Orthodox Jewish communities of Borough Park and Midwood that was reflected in the 2012 plan.

343. The Orthodox Jewish community in Midwood remains united in District 9 with the Orthodox Jewish community in Crown Heights.

344. District 9 unites the Orthodox Jewish communities in Midwood and Crown Heights with the Orthodox Jewish community in Ocean Parkway South. These Orthodox Jewish communities have much in common with one another, and they now are more united than they were under the 2012 plan.

345. District 8 also now unites Sheepshead Bay, Brighton Beach, Gravesend, and Manhattan Beach, Russian-speaking communities of interest that had previously been divided.

346. The reapportionment of Districts 8 and 9 preserved the cores of those districts and avoided the dilution of minority voting strength in Districts 7, 8, and 9.

347. Petitioners allege that District 10 has an unusual shape, but Petitioners ignore that the shape of District 10 has been substantially the same for the last three redistricting cycles, dating back to 1992 when it was District 8.

348. A neutral special master retained by the United States District Court for the Eastern District of New York drew District 10 as a Manhattan-Brooklyn district in 2012, and the new version of District 10 maintains substantially the same shape as the prior court-drawn version.

349. District 10 maintains the core of the prior district.

350. District 10 continues to unite the Jewish communities on the Upper West Side of Manhattan with the Orthodox Jewish community in Borough Park, just as the 2012 court-drawn plan did and as public testimony before the Commission urged it to do.

351. Linking the Orthodox Jewish communities on the Upper West Side with the Orthodox Jewish community in Borough Park caused District 10 to look the way it did in 2012 and as it continues to look today.

352. New York City has the largest Jewish population of any city in the world, but District 10 is the only New York City district represented by a Jewish Member of Congress, Jerry Nadler.

353. Petitioners complain that the Orthodox Jewish communities in Borough Park and Midwood are not united in the new map, just as they were not united in the old map. But they ignore that because of the size of the Orthodox Jewish communities in New York City and their geographic distribution throughout Brooklyn and Manhattan, it would have been impossible to draw a district that unites all of the Orthodox Jewish communities in those boroughs without cracking other communities of interest and/or disregarding other neutral redistricting principles.

354. Petitioners also assert falsely that the enacted plan divides Asian-American communities of interest in Sunset Park between Districts 10 and 11. Petitioners appear to misunderstand the demographics of Sunset Park.

355. Sunset Park includes a substantial Chinese-speaking community.

356. Sunset Park also includes a substantial Hispanic community.

357. District 10 unites the Chinese-speaking community of Sunset Park with similar Chinese-speaking communities of interest in the Chinatown neighborhood of Manhattan.

358. For the first time, District 10 also unites substantial and growing Chinese-speaking communities of interest in Bensonhurst and Bath Beach with Chinese-speaking communities in Sunset Park and Chinatown. These communities of interest share a common language, transit routes, economic pursuits, and cultural and familial ties.

359. District 10 reflects public testimony before the Commission, including from the OCA-NY (formerly the Organization for Chinese-Americans), that urged both the unification of Chinese-speaking communities in Bensonhurst and Bath Beach, which had been divided previously, and the continued linking of the Chinese-speaking community of Sunset Park with the Chinese-speaking community in Chinatown.

360. Petitioners complain that the enacted plan did not keep the Hispanic community in Sunset Park united with other Hispanic communities in Brooklyn and the Lower East Side of Manhattan. Petitioners ignore that doing that, while complying with the equal population requirement, would have required splitting the Chinese-speaking communities that are now united in District 10 and also severing other communities of interest in surrounding districts.

361. Petitioners complain that District 11 allegedly does not protect its Republican incumbent, but that allegation, even if true, does not render District 11 unlawful.

362. Petitioners cite nothing wrong with this district or any violation of neutral redistricting criteria, other than alleged partisan intent, the inverse of their partisan dissatisfaction.

363. District 11 maintains the core of the prior district in Staten Island.

364. The population of Staten Island under the 2020 census is 495,747, which is approximately 64% of an equipopulous congressional district.

365. The federal equal population rule required the population of former District 11 to include an additional 281,224 residents from outside of Staten Island.

366. Staten Island historically has been combined with territory in Brooklyn, the borough with which it shares a vehicle bridge crossing, the Verrazano Narrows Bridge.

367. New District 11 continues this historical tradition.

368. New District 11 crosses only one body of water, thereby minimizing the number of water crossings.

369. The Brooklyn portion of District 11 is reasonably compact.

370. District 11 unites communities of interest in Staten Island and Bay Ridge, the community in Brooklyn with which Staten Island has historically enjoyed the closest affiliation. Bay Ridge is contained entirely within District 11.

371. Bay Ridge and Staten Island have each historically shared significant Italian-American and Irish-American populations.

372. District 11 avoids cracking Chinese-speaking communities of interest that are now united in District 10.

373. District 11 unites communities of interest that share a common transit line, the R line.

374. Petitioners allege that there is no common thread between the Brooklyn communities in District 11, but in fact, those communities were historically linked in a shared congressional district.

375. In 1972, Bay Ridge, Sunset Park, and Park Slope shared a congressional district located entirely within Brooklyn.

376. In 1982, Bay Ridge and Sunset Park were separated from Park Slope and combined with Staten Island, in a similar configuration to the lines in the current plan.

377. By reverting to its prior route through Brooklyn, District 11 accommodates the expansion of surrounding districts and communities of interest in those districts.

378. Petitioners ignore that the configuration of District 11 is constrained by the configurations of Districts 8, 9, and 10, that the configuration of Districts 8 and 9 implicates concerns relating to minority voting strength, and that District 10 was reconfigured to extend further south to unite Chinese-speaking communities of interest.

379. District 11 remains a highly competitive district.

Districts 16, 17, 18, and 19 in the Hudson Valley Region Are Not Unlawful

380. In the upstate region, the loss of population and elimination of a district required that districts be pushed significantly to the south and east into the Hudson Valley region.

381. At the same time, the population growth within Long Island and New York City required the downstate districts to push to the north.

382. These colliding demographic forces required significant reconfiguration of the Hudson Valley region districts.

383. The federal equal population rule required the population of former District 16 to be increased by 6,570 people.

384. The federal equal population rule required the population of former District 17 to be increased by 13,220 people.

385. The federal equal population rule required the population of former District 18 to be increased by 28,529 people.

386. The federal equal population rule required the population of former District 19 to be increased by 78,298 people.

387. District 16 was and remains a district in which minority voters have the opportunity to elect the candidate of their choice.

388. The incumbent Member of Congress representing District 16, Jamaal Bowman, is African-American.

389. To comply with the equal population rule, District 16 had to push further into Westchester County.

390. Petitioners observe that District 16 previously was shaped differently and located mostly in Westchester, but they ignore the demographic pressure imposed on this area by population growth in Long Island and New York City.

391. District 16 preserves the core of the prior district and unites communities of interest in the Bronx with similar communities with shared interests in Mount Vernon and Yonkers in Westchester County.

392. District 16 had to push further north than Mount Vernon and Yonkers, but moving District 16 to the northwest would have disturbed the core of existing District 17.

393. Moving District 16 further to the east in southern Westchester County would have disturbed District 3, which as set forth above enables that district to comply with the equal population requirement without disturbing minority opportunity districts in Brooklyn, Queens, and the Bronx.

394. Moving District 16 to the east in northern Westchester County or Putnam County would have made it less compact because those areas are sparsely populated.

395. District 16 cuts a straight northern path through the towns of Yorktown and Somers. Together with Putnam Valley and Carmel to the north, this configuration created a relatively compact district.

396. District 16 unites communities of interest because the communities in District 16 on either side of the Westchester-Putnam border have more in common with one another than with the communities to their east.

397. District 16 reflects public testimony before the Commission, from a Republican elected official in Westchester, that encouraged the Commission to unite the communities of Yorktown and Somers with similar communities in Putnam County.

398. This Westchester-Putnam border region also shares the common recreational feature of Donald J. Trump State Park, which crosses the border between Westchester and Putnam Counties.

399. This distribution of population had the salutary effect of keeping communities in northeastern Westchester and southern Putnam together with similar communities on the other sides of the border in District 18.

400. The Commission's Plan A recommendation similarly included Putnam County in District 16.

401. It would not have been possible for District 17 to comply with the equal population rule if it remained confined to Westchester and Rockland Counties like it was in the 2012 plan given the expansion of other districts around it in the enacted plan.

402. District 17 preserves the core of the prior district and continues to unite Greenburgh with Mount Kisco.

403. District 17 continues to unite Hasidic Jewish communities of interest in the Town of Ramapo in Rockland County.

404. District 17 unites Orthodox Jewish communities in Sullivan County – which have grown substantially since the 2010 decennial census – with Orthodox Jewish communities in Rockland County.

405. District 17 includes a single Hudson River crossing, as it previously did.

406. That single Hudson River crossing unites communities of interest such as Nyack and Tarrytown.

407. District 17 keeps Sullivan County whole.

408. District 18 preserves the core of the prior district in Orange County, ceding some population to District 17 to enable District 17 to comply with the equal population requirement.

409. Petitioners assert that District 18 used to be a Republican-leaning district, but the prior version of District 18 elected a Democrat to Congress in every election since 2012, and new District 18 remains highly competitive.

410. Petitioners claim that District 18 was configured for partisan purposes, but that claim is undermined by their observation that District 18 includes the Republican-leaning community of Kiryas Joel.

411. District 19 maintains a similar shape to its predecessor.

412. Statewide population growth coupled with population decline to the north of District 19 required it to expand significantly. Heading into this redistricting cycle, District 19 was one of the three most under-populated districts in New York State.

413. Binghamton and Utica were previously united in District 22, which, as explained below, is the district that was eliminated because New York lost one Congressional district.

414. District 19 continues to unite Binghamton and Utica and unites them with Rensselaer and other cities that share common interests, such as Kingston, Hudson, and Oneonta.

415. Binghamton and Utica are cities with significant numbers of people that add needed population to the severely under-populated District 19.

416. District 19 also unites the southern suburbs of Albany, such as Bethlehem and East Greenbush.

417. Petitioners assert that Columbia and Greene Counties are “Republican communities,” but Columbia County voted for President Biden by a margin of 17 points in the 2020 election, and Greene County has become more Democratic.

418. District 19 keeps Columbia and Greene Counties intact, as they had been previously.

419. Petitioners claim that certain Republicans were intentionally pushed out of District 19, but Petitioners ignore that those same Republicans were placed in District 18, another district that Petitioners claim purposefully excluded Republicans.

Districts 21, 22, 23, 24, and 25 in the Southern Tier and Upstate New York Are Not Unlawful

420. New York’s congressional delegation lost a district following the 2020 decennial census.

421. The elimination of a district required the previous congressional districts to be significantly reconfigured.

422. As explained above, the upstate region experienced the greatest population decreases during the last ten years.

423. The federal equal population rule required the population of former District 20 to be increased by 30,681 people.

424. The federal equal population rule required the population of former District 21 to be increased by 71,930 people.

425. Following the 2020 decennial census, Districts 22 and 23, as previously drawn, were the most underpopulated districts in the State.

426. The federal equal population rule required the population of former District 22 to be increased by 80,361 people.

427. The federal equal population rule required the population of former District 23 to be increased by 83,462 people.

428. The federal equal population rule required the population of former District 24 to be increased by 59,664 people.

429. The federal equal population rule required the population of former District 25 to be increased by 43,930 people.

430. The federal equal population rule required the population of former District 26 to be increased by 34,520 people.

431. Due to the population decline across upstate New York and the need to eliminate a district, it made the most sense to collapse either District 22 or District 23 into surrounding districts because those districts were the most under-populated.

432. Because much of prior District 23 bordered the State's southern border, and because prior District 22 was surrounded on nearly all sides by other districts, eliminating District 22 made it easier to disperse its population into other districts.

433. Many of Petitioners' allegations concerning the upstate districts are unintelligible because they compare districts in the prior plan to the districts with the same number in the

enacted plan even though prior District 22 has been eliminated and other upstate districts have been renumbered.

434. District 20 unites communities of interest in the Albany suburbs, consistent with public testimony before the Commission that encouraged the continued unification of Troy, Albany, and Schenectady.

435. District 20 unites those areas with other communities of interest in Glens Falls and Queensbury, just as they were prior to the last redistricting cycle.

436. District 20 has become less reliably Democratic, not more so.

437. District 21 was significantly underpopulated following the 2020 census and needed to draw significant population from surrounding areas.

438. The areas closest to the core of District 21 are all rural and heavily Republican.

439. Because the areas closest to the core of District 21 are all sparsely populated, it was necessary to add several counties to District 21.

440. District 21 retains the core of the prior district and combines it with other similar communities of interest.

441. Because prior District 22 was eliminated, Petitioners' attempts to compare prior District 22 with the current District 22 are inapposite.

442. Petitioners claim that District 22 "flipped" from a competitive Republican district to a strong Democratic district, but prior District 22 no longer exists.

443. Current District 22 is most similar to prior District 24.

444. Current District 22 unites prominent centers of higher education, including Syracuse University, Cornell University, Ithaca College, SUNY Cortland, and other educational centers. These "college town" communities share similar characteristics.

445. Petitioners claim that District 22 unites Tompkins County with Onondaga County for unlawful purposes, but both plan recommendations submitted by the Commission united Tompkins County with Onondaga County.

446. District 22 reflects public testimony before the Commission that advocated for Tompkins County to be united with similar communities near Syracuse.

447. District 23 creates a unified Southern Tier district, a configuration that was supported by public testimony before the Commission.

448. Both of the plans submitted by the Commission proposed the creation of a Southern Tier district, though the Commission's proposed districts are less compact than the enacted District 23.

449. The equal population rule required substantial additional population to be added to the prior version of District 23.

450. Petitioners complain that District 23 pulls in parts of Erie County, including Buffalo suburbs.

451. In order to pull population from somewhere other than Erie County, it would have been necessary for District 23 to expand significantly to the north, such that District 23 would not have been a Southern Tier district.

452. Both of the plans submitted by the Commission drew population from Erie County to complete District 23.

453. The western portion of the upstate region includes two urban centers, Rochester and Buffalo.

454. Districts 25 and 26 preserve Rochester and Buffalo as the cores of those districts.

455. District 24 in the enacted plan did not replace prior District 24. District 24 has the most in common with prior District 27. Petitioners' comparisons of District 24 with prior District 24 therefore are inapposite.

456. District 24 keeps more than half of prior District 27 intact, thereby preserving the core of that district.

457. District 24 unites rural communities with communities of interest along Lake Ontario. District 24 spans a wide area because it is comprised of rural communities that are sparsely populated.

458. Petitioners assert that District 24 is excessively non-compact because of its length, but District 24 is approximately the same length as District 23, which is more compact than either version of the Southern Tier district proposed by the Commission.

459. Petitioners challenge the fact that part of Ontario County is in reapportioned District 25, instead of District 24. The portion of Ontario County in question contains Finger Lakes Community College. That institution and its surrounding community are now joined with other educational institutions, including the Rochester Institute of Technology, the University of Rochester, SUNY Brockport, and Monroe Community College, all of which share common interests.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

460. Petitioners lack standing to assert the claims set forth in the Petition.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

461. The Petition fails to set forth plain and concise statements and fails to set forth single allegations in each separately numbered paragraph as required under CPLR 402 and Rule 3014.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

462. The Petition fails to state a claim upon which relief can be granted.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

463. Petitioners waived any right to relief.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

464. The Petition is barred by the doctrine of estoppel.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

465. The relief Petitioners seek would sow confusion among election officials, candidates, and voters, and would unduly interfere with orderly election processes.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

466. The Petition seeks relief that is precluded by the New York State Constitution.

WHEREFORE, for all of the reasons set forth herein, in the accompanying Affidavit of Dr. Kristopher Tapp, and in the Memorandum of Law in Opposition to the Petition, Respondents respectfully request that the Court dismiss the Petition and otherwise deny the relief sought by Petitioners in the Petition in its entirety, with costs, fees, and disbursements, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
February 24, 2022

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