

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

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

Index No. 164002/2025

Petitioners,

-against-

**Opposition to Respondents
Kosinski, Casale, and Rileys’
Motion to Recuse**

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

Respondents,

-and-

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

Intervenor-Respondents.

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PRELIMINARY STATEMENT

In New York, a “judge has an affirmative duty not to recuse himself but to preside over a case.” *Loreto v. Wells Fargo Bank, N.A.*, 62 Misc. 3d 1202(A), 107 N.Y.S.3d 810, 2016 WL 11531367, at *3 (Sup. Ct. Monroe Cnty. Sep. 27, 2016). Recusal is warranted only when the judge is “satisfied that he [] is unable to serve with complete impartiality, in fact or appearance.” *Trimarco v. Data Treasury Corp.*, 146 A.D.3d 1004, 1008, 46 N.Y.S.3d 134, 139 (2017) (internal citation omitted) (cleaned up). At the November 7 scheduling conference in this matter, Your Honor disclosed certain prior relationships with some of the Respondents in this case, most of which are quite dated and all of which are unrelated to this case. Your Honor explained that Your Honor had diligently “read the law,” “the regulations,” and “the advisory opinions,” and “consulted with counsel” regarding these relationships. NYSCEF Doc. No. 67 (Transcript of Nov. 7, 2025 conference), 8:6-8 (“Tr.”). Your Honor made clear that Your Honor will remain impartial in this case, and there has been no indication that Your Honor believes recusal is warranted here. *See generally* Tr. 8:6-11.

Nevertheless, *three weeks after* that scheduling conference in these time-sensitive proceedings, Respondents Peter S. Kosinski, Anthony J. Casale, and Raymond J. Riley, III’s (“Respondents”) moved to recuse Your Honor from this proceeding. Nothing in that motion provides any reason why this Court should change its well-founded conclusion that recusal is not warranted. The Court should thus deny the motion and proceed with the case as scheduled.

First, Respondents’ purported basis for mandatory recusal—that Your Honor or one of Your Honor’s former colleagues advised Governor Hochul on the constitutionality of the John R. Lewis Voting Rights Act of New York (the “NY VRA”)—is based on pure speculation. Even if true, however, it would not support recusal; mandatory recusal is warranted only if such advice amounted to work on the same “matter” as the constitutional vote dilution claim Petitioners bring

here. Because generalized counsel on the constitutionality of pending legislation (here, the NY VRA), is not the same “matter” as litigation that later invokes the enacted legislation—in a case that both Petitioners and Respondents agree presents a “matter of first impression”—there is no legal basis for mandatory recusal.

Second, Respondents fail to establish that discretionary recusal is warranted. Your Honor’s prior work as Respondent Majority Leader Stewart-Cousins’ chief of staff ended more than a decade ago, and Your Honor served as counsel to Respondent Majority Leader Stewart-Cousins in a voluntary capacity nearly *two* decades ago. Your Honor’s role as counsel to Respondent Governor Hochul ended more than two years ago, as New York ethics rules require, and there is no indication that any of Your Honor’s work in these roles is in any way related to this action. Nor would Your Honor’s past engagements with any other Respondent cause a reasonable person to question the Court’s impartiality in this suit. Those engagements were predominantly fleeting and insubstantial. Moreover, all Respondents in this case are sued only in their official capacities, which generally makes recusal unnecessary even when a judge maintains a close social relationship with the named official. *Cheney v. U.S. Dist. Ct. for D.C.*, 541 U.S. 913, 916 (2004) (Scalia, J., sitting as a single justice).

Finally, recusal at this stage in the litigation is likely to be highly prejudicial to Petitioners, who seek relief ahead of the 2026 primary elections. To ensure that state elections are not “conducted pursuant to an unconstitutional [r]apportionment,” the “State Constitution [r]equires expedited judicial review of redistricting challenges.” *Harkenrider v. Hochul*, 38 N.Y.3d 494, 522, 197 N.E.3d 437, 454, 497 (2022). Despite acknowledging at the November 7 scheduling conference that they should file their motion to recuse expeditiously, Respondents waited *three weeks* to do so and then filed on the eve of the Thanksgiving holiday, which meant that a briefing

schedule could not be set until the following week. In addition to the fact that there is no reason to reassign this case to another judge, doing so at this stage of these expedited proceedings would inevitably cause delay and could severely prejudice Petitioners' ability to obtain relief ahead of the 2026 primary elections.

For these reasons and others set forth herein, the Court should deny Respondents' motion to recuse.

BACKGROUND

On October 27, 2025, Petitioners filed this action, which alleges that the current configuration of Congressional District 11 fails to account for recent changes in Staten Island's demographic makeup and dilutes the voting strength of Black and Latino voters, in violation of Article III, Section 4(c)(1) of the New York Constitution.¹ Petitioners ask the Court to order the Legislature to remedy this constitutional violation by redrawing CD-11 to unite Staten Island with lower Manhattan in a district that would allow Black and Latino residents to have an equal opportunity as other members of the electorate to influence elections and elect representatives of their choice. Petitioners filed this suit against several state entities and state officers in their official capacities, including the State Board of Elections and all of its commissioners, as well as the New York Attorney General, the President *Pro Tempore* of the Senate, the Speaker of the Assembly, and the Governor.

Pursuant to Article III, Section 5 of the Constitution, this redistricting case must be given

¹ Petitioners do not bring any claims under the recently enacted NY VRA, which does not, on its own terms, apply to congressional districts. Petitioners' single claim is brought under the New York Constitution, and Petitioners contend that the NY VRA supplies the appropriate legal framework to evaluate Petitioners' constitutional claim. But the constitutionality of the NY VRA is not directly at issue here, and in any event, the Court of Appeals recently rejected a facial challenge to constitutionality of the NY VRA in *Clarke v. Town of Newburgh*, No. 84, 2025 WL 3235042 (N.Y. Nov. 20, 2025).

precedence over all other causes and proceedings and decided expeditiously. As such, this case has already progressed well beyond the initial stages. Your Honor was assigned to this case on October 28, 2025. Less than two weeks after Petitioners filed this action, on November 7, the parties appeared before the Court to establish a briefing schedule for dispositive motions and set the date for a two-day hearing. *See* NYSCEF Doc. No. 31; NYSCEF Doc. No. 67 (Tr.). On November 17, Petitioners filed their Memorandum of Law in Support of their Petition, which is supported by three expert reports. NYSCEF Doc. Nos. 60–63. Respondents’ and Intervenor-Respondents’ motions are due today, December 8. Petitioners’ reply briefs are due in ten days, on December 18. In just over two weeks, on December 23, briefing on the merits of Petitioners’ claim will be complete. A hearing is set before the Court on January 6 and 7, 2026. NYSCEF Doc. No. 56. Your Honor indicated at the November 7 scheduling conference that he understood the need for an expedited decision in this matter and that the Court would issue a decision very soon after the January hearing.

During the scheduling conference, Your Honor also made a series of disclosures regarding Your Honor’s previous engagements with certain Respondents or their counsel, most of which dated back many years and were professional in nature. These include:

- Serving in a volunteer capacity as counsel to Majority Leader Stewart-Cousins in election contests in 2004 and 2006, and serving as her chief of staff from 2014–2015;²

² Tr. 6:4-9.

- Serving as chief of staff and then counsel to then-Lieutenant Governor Hochul from 2015–2016, and later as special counsel to Governor Hochul in a “transitional role” when she became governor;³
- A casual acquaintance with Respondent Anthony J. Casale in the 1990s;⁴
- Attending the same functions as Respondent Kristen Zebrowski Stavisky and “serving as counsel in the State Senate with her mother-in-law”;⁵ and
- A social relationship with Respondent Henry T. Berger.⁶

Your Honor explained that you had “read the law,” “the regulations,” and “the advisory opinions,” and “consulted with counsel” regarding these relationships. Tr. 8:6–8. Your Honor noted your 37-year experience as a public officer who “taught government ethics,” and believed you “put everything on the record that’s necessary.” Tr. 10:3–6. Your Honor did not provide any indication that Your Honor believed recusal was warranted.

Following these disclosures, counsel for Respondents Kosinski, Casale, and Riley indicated their intent to file a motion for disqualification. Counsel stated that Respondents intended to make the motion “on an expedited basis, understanding it is a threshold issue that should be resolved at the outset before any subsequent proceedings.” Tr. at 10:11–14. But for nearly three weeks, that motion did not come. It was not until November 26, on the eve of the Thanksgiving holiday—more than four weeks after Your Honor was assigned to this case, more than three weeks after Petitioners filed their Memorandum of Law, and less than a month until briefing in this matter

³ Tr. 5:24-6:3.

⁴ Tr. 7:20-8:2.

⁵ Tr. 7:5-10.

⁶ Tr. 8:20-9:1. Your Honor also described attending law school with counsel for certain respondents, Mr. Quail, as well as “serv[ing] [with him] in election capacity over the years.” *See* Tr. 7:11-16. But Your Honor has not had any interaction with Mr. Quail in the last decade. *See id.*

will conclude—that Respondents filed their motion to recuse. Because of this delay, briefing on this “threshold issue” will not conclude until *after* Respondents have filed their opposing memoranda and cross-motions to dismiss, and it will require a hearing during the ten-day period Petitioners have to submit their reply brief. NYSCEF Doc. Nos. 56, 75.

ARGUMENT

New York law provides different standards for mandatory and discretionary recusal. The bases for mandatory recusal are narrowly drawn and enumerated in Judiciary Law § 14 and 22 NYCRR § 100.3[E][1]. Respondents invoke only one basis for mandatory recusal: that recusal is required where the judge “served as a lawyer in the matter in controversy” or a lawyer with whom the judge worked served as a “lawyer concerning the matter.” Mot. at 11 (quoting 22 NYCRR § 100.3[E][1][b]). But Respondents’ argument that Your Honor previously represented Governor Hochul in this “matter” is based on pure speculation, and it misunderstands the applicable rules by conflating prior legal advice as to the constitutionality of pending legislation (the NY VRA) with this “matter” currently before the Court.

Respondents’ arguments for discretionary recusal likewise fail. The default rule in New York courts is that a “judge has an obligation not to recuse himself or herself . . . unless he or she is satisfied that he or she is unable to serve with complete impartiality, in fact or appearance.” *Wilson v. Brown*, 162 A.D.3d 1054, 1056, 80 N.Y.S.3d 343, 344 (2018) (quoting *Trimarco*, 146 A.D.3d at 1008). The decision whether to recuse lies within the Court’s sound discretion, *see People v. Moreno*, 70 N.Y.2d 403, 405 (1987), and it is appropriate to recuse only where the appearance of impropriety genuinely threatens the integrity of the judiciary. To that end, recusal is warranted only where “the judge’s impartiality might reasonably be questioned.” 22 NYCRR § 100.3[E][1]. That is not the case here. Your Honor’s prior relationships with Respondents are unrelated to this litigation, quite dated (some based on work done over a decade ago and others

based on interactions that date back 20 years or more), and largely brief. For these reasons, and as discussed in further detail below, Respondents' motion for recusal should be denied.

I. Respondents have not provided any basis for mandatory recusal.

Tellingly, Respondents devote only a single page of argument to their speculative theory that disqualification is required because "Your Honor represented Governor Hochul during the enactment of the NYVRA," and "the constitutionality of the NYVRA's standards will be at issue in this proceeding." Mot. at 11. As an initial matter, Respondents' arguments are replete with speculation: first they assume that Governor Hochul's counsel advised her on the constitutionality of the NY VRA; then they speculate that Your Honor may have provided such counsel; and then they argue that even if Your Honor did not advise the Governor, recusal would still be required because Governor Hochul's other counsel *may have* advised on the constitutionality of the NY VRA and Your Honor *may have* practiced law with those counsel. Respondents offer no facts to support these hypotheticals.⁷ But even if they were true, they would not require disqualification because neither Your Honor nor Your Honor's former colleagues have served as a lawyer in or advised on this case, which Respondents agree is a matter of first impression. *See* Mot. at 9.

As relevant here, disqualification is required only (1) when the judge "served as a lawyer *in the matter in controversy*," 22 NYCRR § 100.3[E][1][b] (emphasis added), or was an attorney or counsel in the "an action, claim, matter, motion or proceeding," N.Y. Jud. Law art. II, § 14

⁷ Several facts suggest that these speculative claims are unsupported. For example, it is not clear whether Governor Hochul would have received counsel on the constitutionality of the NY VRA from anyone, as the bill was first proposed before Governor Hochul assumed office. Even if Governor Hochul was counseled on the constitutionality of the NY VRA, it is far from clear that Your Honor would have provided such counsel. Your Honor did not serve as Governor Hochul's *general counsel*, but rather as special counsel in a "transitional role." *See* Anna Gronewold, *Hochul's rocky rollout roils fellow Democrats*, Politico (Feb. 1, 2023), <https://www.politico.com/news/2023/02/01/new-york-rocky-rollout-kathy-hochul-00080540>.

(“Judiciary Law § 14”); or (2) when “a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter,” 22 NYCRR § 100.3[E][1][b]. None of those circumstances are present here. Even if Your Honor or Your Honor’s former colleagues advised on the constitutionality of the NY VRA in the past—and there are no facts in Respondents’ briefing to support that speculative claim—any such analysis would not have been part of the same “action, claim, matter, motion or proceeding,” Judiciary Law § 14⁸—or “matter in controversy,” 22 NYCRR 100.3[E][1][b]—as *this* case, and thus would not require recusal.

As the text of the rules makes clear, recusal is contemplated as a result of the judge’s work in a concrete legal dispute, not as a product of generalized legal advice the judge may have provided in the past. *See* Judiciary Law § 14; 22 NYCRR 100.3[E][1][b]. Accordingly, New York law does not support the argument that advice as to the NY VRA’s constitutionality would constitute a prior “matter” for which recusal would be required. Indeed, Respondents have pointed to no authority that stands for the proposition that an attorney’s opinion on the constitutionality of pending legislation, separate and apart from any litigation that may bear on the legislation if it is enacted into law, constitutes a “matter” or “matter in controversy” for purposes of Judiciary Law § 14 and 22 NYCRR 100.3[E][1][b]. Although there is a dearth of case law on the meaning of a “matter” under Judiciary Law § 14 as presently enacted, the terms that surround it—“action, claim, . . . motion or proceeding”—all contemplate recusal as the result of a real and present dispute, not abstract legal advice. “[M]atter” is thus best read as limited to the same. *See Certain Underwriters at Lloyd’s, London v. Forty Seventh Fifth Company LLC*, 172 N.Y.S.3d 323, 75 Misc. 3d 1232(A), at *3 (Sup. Ct. N.Y. Cnty. Apr. 22, 2022) (“[T]he meaning of a word in a series of words is

⁸ This case presents no reason to address Judiciary Law § 17, *see* Mot. at 11 (citing the same), which concerns a judge’s obligations after leaving the bench.

determined by the company it keeps.” (quoting *Lend Lease (US) Constr. LMB Inc. v. Zurich Am. Ins. Co.*, 136 A.D.3d 52, 57 (App. 2015))).

The definition of “matter” under New York’s Rules of Professional Conduct supports the same conclusion. “Matter” means “litigation, judicial or administrative proceeding, case, claim, application, request for a ruling or other determination, contract, controversy, investigation, charge, accusation, arrest, negotiation, arbitration, mediation or any other representation involving a specific party or parties.” N.Y. Comp. Codes R. & Regs. tit. 22, § 1200.0. Again, the general clause—“any other representation involving a specific party”—cannot be so broad as to include any legal opinion, lest it render the list that precedes it superfluous. See *Miranda v. Norstar Bldg. Corp.*, 79 A.D.3d 42, 47 (App. Div. 3d Dept. 2010) (“Where, as here, the language to be construed is a general catchall term that follows a list of more specific words, . . . words constituting general language . . . are not to be given the most expansive meaning possible, but are held to apply only to the same general kind or class as those specifically mentioned.” (quotation omitted)).

But even if a hypothetical legal opinion on the NY VRA’s constitutionality is a “matter” for purposes of the mandatory disqualification rules, it is not *this* matter. Disqualification is not mandatory “unless [the judge] had been the attorney or couns[el] in the *identical action or special proceeding brought before him as a judge.*” See *Davis v. Seaward*, 146 N.Y.S. 981, 985 (Sup. Ct. Kings Cnty. 1914) (emphasis added) (discussing a predecessor to Judiciary Law § 14).⁹ That is

⁹ Federal authority under 28 U.S.C. § 455(b), which likewise requires disqualification only if the judge “served as lawyer in the matter in controversy,” is consistent with this reading. See *Little Rock Sch. Dist. v. Pulaski Cnty. Special Sch. Dist. No. 1*, 839 F.2d 1296, 1301–02 (8th Cir. 1988) (rejecting argument that “the ‘matter in controversy’ contemplated by the recusal statute may extend beyond the litigation conducted under the same docket number where the issues in dispute are sufficiently related” as “precluded” by precedent); *Blue Cross & Blue Shield of R.I. v. Delta Dental of R.I.*, 248 F. Supp. 2d 39, 46 (D.R.I. 2003) (“This Court holds that the term ‘matter in controversy’ as set forth in § 455(b)(2) should be given a restrictive reading; that is, it should be

quite plainly not the case here. As Respondents themselves recognize, this is a “case of first impression,” Mot. at 9, which, by definition, could not have come before Your Honor or Your Honor’s former colleagues in the past. This matter was brought by individual petitioners asserting their right against unconstitutional racial vote dilution under the New York Constitution. It does not even assert a claim under the NY VRA directly. *See* NYSCEF Doc. No. 1 (“Petition”) ¶¶ 96–102. And insofar as Petitioners urge the Court to apply the NY VRA’s standards here, the Court must evaluate those standards—and Respondents’ constitutional defenses—in light of the specific factual context raised herein; that is, whether the configuration of CD-11 under the 2024 Congressional Map dilutes Black and Latino voting strength, and whether that dilution can be remedied by redrawing CD-11 to combine Staten Island and lower Manhattan.

In the end, Respondents’ theory proves far too much. Under their approach, no judge could ever preside over a case involving a statute or rule they once challenged as a litigant in *any* factual setting because, in challenging the statute or rule, the judge (as litigant) would necessarily have had to provide legal advice and analysis regarding the statute or rule. Respondents’ theory would mean that such legal advice would constitute the same “matter” as any case in which the statute or rule was invoked, and the judge would be required to recuse. Such a rule is not only unworkable, but runs contrary to the plain text of Judiciary Law § 14.¹⁰ *See Keeffe v. Third Nat’l Bank*, 177 N.Y. 305, 312 (1904) (“The statute prohibits a judge from sitting in a case in which he has been attorney or counsel, but does not prohibit him from presiding upon the trial of an action, although

read as applying only to the case that is before the Court as defined by the docket number attached to that case and the pleadings contained therein.”).

¹⁰ It is certainly not the case, for example, that every judge who was once a federal prosecutor and defended the felon-in-possession statute as consistent with the Second Amendment can never preside over a case involving 18 U.S.C. § 922(g) charges.

its general purpose may be similar or the same as in some case where he has acted as attorney or counsel.”); *cf. Abrams Fensterman, LLP v. People by James*, No. 453019/2024, 2025 WL 3166466 (Sup. Ct. N.Y. Cnty. Nov. 6, 2025) (in the context of the rule governing a lawyer’s obligation to a former client, “the obligation to a former client does not attach ‘to all substantive issues on which the lawyer worked’” (quoting Rule 1.11, Comment [4])).

II. Discretionary recusal is not warranted.

Respondents press two primary arguments that Your Honor’s continued involvement in this case risks creating an appearance of impropriety: (1) Your Honor previously represented and worked with Respondents Governor Hochul and Majority Leader Stewart-Cousins in various capacities; and (2) at different points over the last twenty years, Your Honor has had professional and/or social relationships with certain other Respondents. Thus far, Your Honor has not concluded that these relationships (and former relationships) warrant recusal or risk creating an appearance of impartiality. That decision should stand.

A. Your Honor’s previous work for Respondents Governor Hochul and Majority Leader Stewart-Cousins does not support recusal.

Respondents’ motion largely focuses on Your Honor’s prior work and former role as counsel to Governor Hochul and Majority Leader Stewart-Cousins as a basis for discretionary recusal. But it is well established that judges are not automatically disqualified from a case merely because one of the parties is a former client (or former adversary). *See, e.g.,* Advisory Comm. On Jud. Ethics Op. (“Opinion”) 15-51; *Nat’l Auto Brokers Corp. v. Gen. Motors Corp.*, 572 F.2d 953, 958 (2d Cir. 1978) (“The prior representation of a party by a judge or his firm with regard to a matter unrelated to litigation before him does not automatically require recusal.”); *People v. Standsblack*, 162 A.D.3d 1523, 1527 (App. Div. 4th Dep’t 2018) (“[T]he mere fact that a Judge previously prosecuted a defendant on an unrelated predicate felony does not require recusal.”).

New York judges must recuse from cases involving former clients for two years following the end of the representation. *See* Opinion 15-51 (“[A] judge should disqualify him/herself, subject to remittal, where a party before the judge was a client of the judge’s law firm on another matter and the representation ended fewer than two years before the appearance date.”); *see also* Opinion 17-150 (same); Opinion 15-126 (same). After that two-year period has expired, there is no need for recusal – mandatory or otherwise. Here, Your Honor has not served as counsel to Respondent Majority Leader Stewart-Cousins for nearly twenty years and has not worked for her in any capacity for nearly ten years. *See* Tr. at 6. And Your Honor’s role as special counsel to Governor Hochul ended over three years ago, midway through 2022.¹¹ Under clearly established ethics standards, more than enough time has passed for Your Honor to preside over a case in which Respondents Governor Hochul and Majority Leader Stewart-Cousins have been sued in their official capacities.

Respondents do not identify any concrete reason why Your Honor should depart from the default rule and recuse despite the significant amount of time that has passed since Your Honor represented or worked with Respondents Governor Hochul and Majority Leader Stewart-Cousins. At most, they contend that an appearance of impropriety might arise because they seem to believe this case is similar to those in which Your Honor represented Governor Hochul and Majority Leader Stewart-Cousins. But that is simply incorrect. Your Honor represented Respondent Majority Leader Stewart-Cousins in matters involving the 2004 and 2006 elections for New York Senate District 35. Those cases have nothing in common with this redistricting case beyond generally involving the subjects of voting and elections. Tr. 6:4–7. Those previous engagements

¹¹ Gronewold, *supra* n.7.

did not even involve the subject of redistricting much less the specific map or congressional district at issue in this litigation.

Your Honor's role as special counsel to Governor Hochul is even further removed. Respondents claim, without citation, that "Your Honor [] served as counsel to Governor Hochul in matters which, like here, related to her official roles as Lieutenant Governor and Governor." Mot. at 9. In reality, however, Your Honor served as special counsel to Governor Hochul in a "transitional role," which does not appear to be related to any substantive election law or redistricting issues. Tr. 6:2–3.¹² And even assuming Respondents are right that the Court once "served as counsel to Governor Hochul in matters . . . related to her official roles as Lieutenant Governor," Mot. at 9, that further underscores why recusal is *not* warranted here. Recusal based on a prior relationship with a party is generally inappropriate when the party is sued in their official capacity only. *Cheney*, 541 U.S. at 916.

Finally, to the extent that Respondents contend that Your Honor should recuse because certain Respondents are Democrats or affiliated with the Democratic Party, they are wrong. As a threshold matter, the Petitioners in this case are New York voters who are invoking their right to live in a congressional district that complies with the New York Constitution's prohibition against racial vote dilution. Petition ¶¶ 15–18. And the remedy Petitioners seek is not a Democratic-leaning district, *contra* Mot. at 9, but rather a district that, consistent with the New York Constitution, offers Black and Latino Staten Islanders an equal opportunity to influence elections and elect their candidate of choice. Petition ¶ 13. Indeed, Petitioners do not ask the Court to "redraw" the map at all (*contra* Mot. at 1); they instead ask the Court to *order the Legislature* to redraw the map to remedy the unconstitutional vote dilution in CD-11. *See* Petition at 28.

¹² Gronewold, *supra* n.7.

“Absent [] a mandatory basis for recusal, the judge himself, subject to his own conscience and discretion, [i]s the sole arbiter of whether to recuse himself.” *Rochester Cmty. Individual Prac. Ass’n, Inc. v. Excellus Health Plan, Inc.*, 305 A.D.2d 1007, 1008, 758 N.Y.S.2d 576, 577 (2003). Your Honor is well-versed in legal ethics and made clear before Respondents’ motion that Your Honor reviewed the relevant rules and will remain impartial in this case. *See generally* Tr. 8:6–11. Beyond the simple fact that Your Honor has previously represented Democrats in New York,¹³ there is no evidence that Your Honor harbors any prejudice toward any party or has prejudged (or even considered) the merits here. *See T.E.G. v. G.T.G.*, 986 N.Y.S.2d 313, 317 (Sup. Ct. Monroe Cnty. May 8, 2014) (“[T]he rules of judicial conduct suggest recusal if the judge has personal knowledge of disputed evidentiary facts concerning the proceeding and prejudices it.”). Respondents substitute actual evidence of bias with news reports speculating that such bias might exist. *See* NYSCEF Doc. Nos. 72–73. But these articles are “not evidence of [Your Honor’s] behavior or conduct,” *In re Disqualification of Skaggs*, 2024-Ohio-6174, ¶ 40, 258 N.E.3d 418, 425, and as Your Honor noted, “there was no one actually quoted in [these] reports calling [Your Honor’s impartiality] into question,” Tr. 10:17–19. “[A] judge’s bias is not presumed from others’ dissemination of . . . publicity attacking the judge.” 2024-Ohio-6174, ¶ 40 (quoting 8 Federal Procedure, L.Ed., § 20:96 (2024)); *see also, e.g., In re Marshall*, 291 B.R. 855, 860 (C.D. Cal. 2003) (“The characterizations of newspaper articles and journalists are not grounds for recusal.”); *In re City of Detroit*, 828 F.2d 1160, 1168 (6th Cir. 1987) (“[A]rticles cited by [a party] do not necessarily mean that the public believes [the] Judge . . . is biased”).

¹³ Your Honor has not exclusively represented Democrats. As Your Honor stated on the record, you and Mr. Berger “represented both [D]emocrat and [R]epublican candidates in election matters up until . . . 2010.” Tr. 8:21-23.

B. Your Honor’s former professional and social relationships with other Respondents do not support recusal.

Respondents also gesture toward Your Honor’s professional and occasionally social interactions with Respondents Stavisky, Kosinski, Berger, and Casale, to support their view that Your Honor’s impartiality may be questioned in this case. But the interactions Your Honor disclosed with Respondents Stavisky, Kosinski, and Casale were professional, not social, and mostly date back 20 years or more. *See* Tr. 6–7. Your Honor has already considered these prior relationships and has not determined that they warrant recusal. *See* Tr. 6:16–20. Respondents have provided no authority that would support changing course at this late stage; they unsurprisingly identify no authority suggesting that such fleeting interactions warrant recusal. And the case law supports Your Honor continuing to preside over this case. *See, e.g., Ahmed v. Brucha Mortg. Bankers Corp.*, 208 N.Y.S.3d 485, 2024 WL 1667267, at *6 (Sup. Ct. Kings Cnty. Apr. 16, 2024) (“Generally, where a judge is acquainted with or casually socializes with an attorney in situations that are unplanned or coincidental, without more, neither disclosure nor disqualification is required.” (quoting Opinion 11-125)).

The only relationship Your Honor described as social is that with Mr. Berger, with whom Your Honor has dinner once a year and vacationed more than a decade ago. Tr. 8:20–9:1. “In general, a judge is in the best position to assess whether their impartiality might reasonably be questioned in matters involving an attorney the judge knows socially.” Opinion 21-06. Your Honor explained that your relationship with Mr. Berger for the last decade has consisted only of annual dinners. Tr. 8:25–9:1. Such “occasional associations” between a party and a decisionmaker do “not warrant disqualification” on the ground of “the appearance of bias or partiality.” *Kaygreen Realty Co., LLC v. IG Second Generation Partners, L.P.*, 116 A.D.3d 667, 668, 983 N.Y.S.2d 293,

294 (2014) (discussing standards for disqualification of arbitrators).¹⁴ In addition, recusal is unnecessary because Petitioners have sued Mr. Berger in his official capacity only. *Cheney*, 541 U.S. at 916 (“While friendship is a ground for recusal . . . where the personal fortune or the personal freedom of the friend is at issue, it has traditionally not been a ground for recusal where official action is at issue, no matter how important the official action was to the ambitions or the reputation of the Government officer.”). Finally, recusal would also be inappropriate given the baseline presumption that a “judge has an obligation not to recuse himself or herself,” *Wilson*, 162 A.D.3d at 1056 (quoting *Trimarco*, 146 A.D.3d at 1008), and the prejudice to Petitioners that would result from recusal at this stage in this expedited proceeding.

The consequences of Respondents’ position here—that Your Honor’s previous occasional social and professional interactions with some of the state officials who serve as Respondents in this case would require recusal—are simply untenable. As Justice Scalia identified in *Cheney*, countless judges join the bench following—or even *because of*—longstanding employment in or other connections to the government and government officials. *See Cheney*, 541 U.S. at 916; *cf. Anonymous v. Anonymous*, 63 Misc.3d 1219, 2019 WL 1782373, at *4 (Sup. Ct. N.Y. Cnty. Apr. 23, 2019) (“As candidates [judges] are thrust into the political arena, where they are often required to vie for support from elected officials and other politically influential people. Nevertheless, this intersection between judicial and political spheres in no way translates to judges becoming the obedient servants to those who may have played a role in their elections.”); *id.* at *4 n.2 (noting

¹⁴ Similarly, in the analogous context of a judge’s casual social relationship with a party’s attorney or a witness to the proceeding, New York “case law [does not] mandate recusal merely due to a judge’s acquaintanceship with [such] attorney or a witness.” *Id.* at *2 (citing *Mugas v Mugas*, 210 AD2d 1994 [4th Dept 1994] in which the judge and his wife “met with plaintiff’s counsel and counsel’s wife *every two or three months*”) (emphasis added)); *see also id.* at *4 (A “judge need not disclose that [an] attorney appearing in [the] judge’s court attended [the] judge’s annual holiday party.” (citing Joint Opinion 05-89/05-90)).

the same “holds true in many instances for judges who are appointed rather than elected,” because “[a]ppointments are not made in a political vacuum, and those doing the appointing are often politicians themselves or else subject to lobbying from politicians”). “A rule that required [judges] to remove themselves from cases in which the official actions of” political associates or friends “were at issue would be utterly disabling.” *Cheney*, 541 U.S. at 916.

CONCLUSION

For the foregoing reasons, the Court should deny Respondents’ Motion for Recusal, Doc. 74, and preside over this case as scheduled.

Dated: December 8, 2025

Respectfully submitted,

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CERTIFICATIONS

I hereby certify that the foregoing memorandum of law complies with the word count limitations set forth in Rule 202.8-b(a). This memorandum of law contains 5,465 words, excluding parts of the document exempted by Rule 202.8-b(b).

I further certify that no generative artificial intelligence program was used in the drafting of any affidavit, affirmation, or memorandum of law contained within the submission.

/s/ Aria C. Branch

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