

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

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

Petitioners,

-against-

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

Index No.: 164002/2025

Hon. Jeffrey H. Pearlman

Mot. Seq. 001

Respondents,

-and-

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

Intervenor-Respondents.

RESPONDENTS' PROPOSED FINDINGS OF FACT

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TABLE OF CONTENTS

I. Background..... 1

 A. The Existing Plan..... 1

 B. Petition and the relief sought 2

II. Petitioners’ evidence..... 3

 A. Dr. Maxwell Palmer..... 3

 B. William Cooper..... 5

 i. Traditional Redistricting Principles 8

 ii. Mr. Cooper did not attempt to avoid a partisan gerrymander..... 12

III. Respondents’ evidence..... 14

 A. Dr. John Alford..... 14

 i. Qualifications..... 14

 ii. Dr. Alford’s Methodology 14

 iii. Dr. Alford’s Conclusions and Opinions..... 15

 B. Thomas Bryan..... 16

 i. Qualifications..... 16

 ii. Mr. Bryan’s analysis of the Illustrative Plan 17

 iii. Traditional Redistricting Criteria..... 18

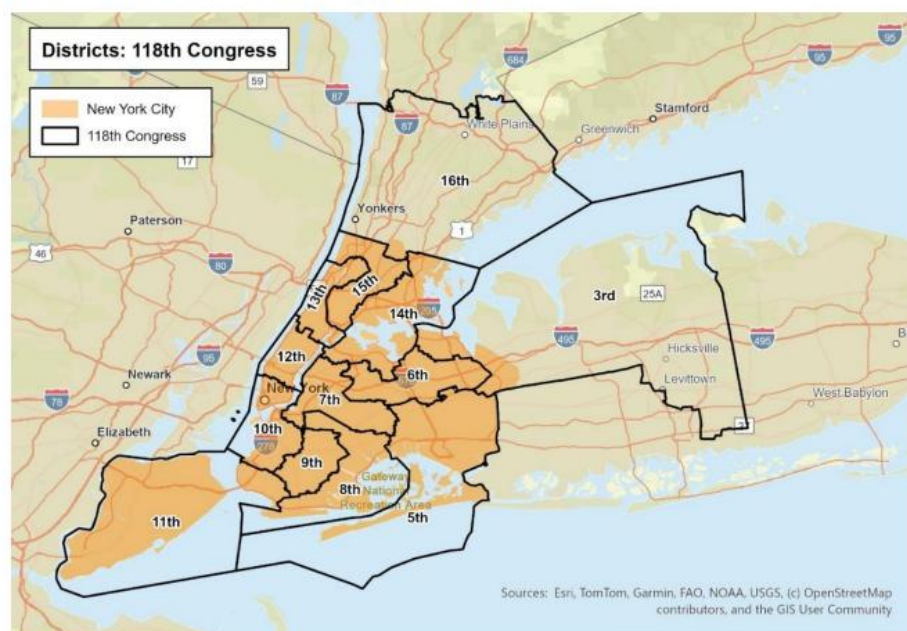
I. Background¹

A. The Existing Plan

1. As Dr. Sean Trende explains in detail, CD-11 has long combined Staten Island with Brooklyn.²

2. Based on the 2020 Census, New York lost one Congressional seat, going from 27 to 26 members of Congress. As a result of a subsequent breakdown in the Independent Redistricting Commission and ensuing litigation, a Special Master was assigned to draw a new map, resulting in the “2021 Plan.”³ The 2021 Plan also joined Staten Island with Brooklyn:

Figure IV.E.1: 2021 Plan: 13 Districts in and Around NYC



Source: U.S. Census TIGER shapefile for 118th Congress

4

¹ Respondents adopt and expressly incorporate herein the Intervenor-Respondents’ Proposed Findings of Fact and Conclusions of Law (NYSCEF Doc No. 207).

² VEC Doc. No. 1-39 (Expert Report of Dr. Sean P. Trende) (“Trende Report”) at 19-23.

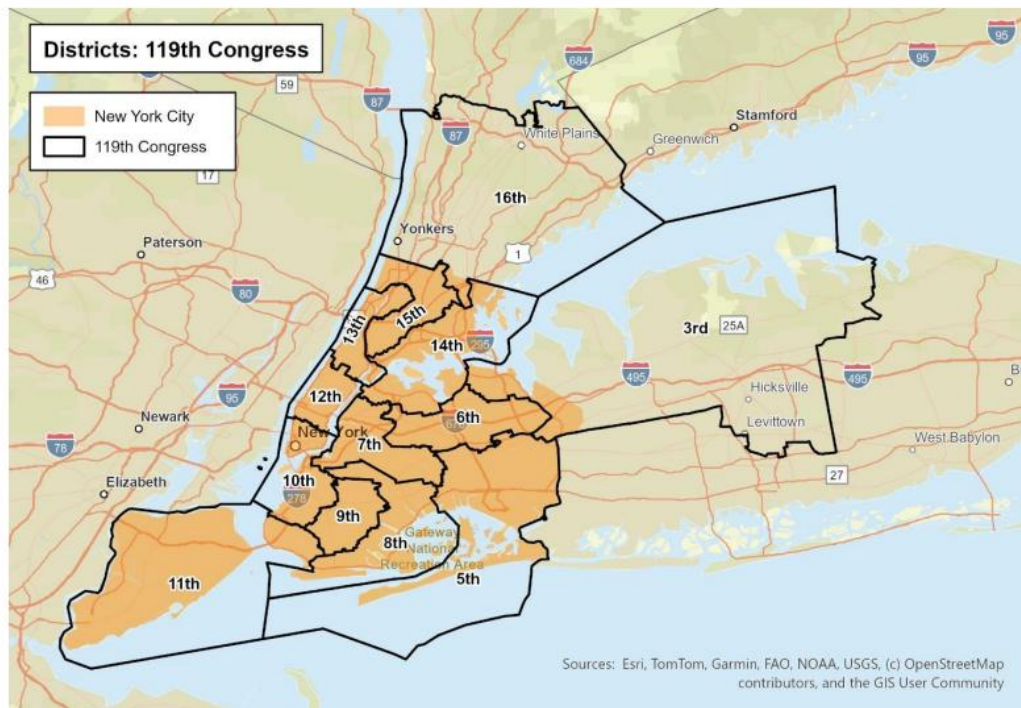
³ VEC Doc. No. 1-43 (Expert Report of Thomas Bryan) (“Bryan Report”) ¶ 96.

⁴ Bryan Report at 27.

3. Following an additional round of litigation, the New York State Legislature enacted a new map, which Governor Hochul signed into law (the “2024 Plan”).⁵ The 2024 Plan is currently in place and is the plan challenged by Petitioners in this proceeding.

4. The 2024 Plan also combines Staten Island with Brooklyn:

Figure IV.G.1: 2024 Plan



Source: U.S. Census TIGER shapefile for 119th Congress

6

B. Petition and the relief sought

5. Petitioners commenced this special proceeding challenging the 2024 Plan on the basis that Black and Latino Staten Islanders purportedly have “less opportunity than other members of the electorate to elect a representative of their choice and influence elections” and alleging a violation of Article III, § 4(c)(1) of the New York Constitution.⁷

⁵ Bryan Report ¶ 96.

⁶ Bryan Report ¶ 96.

⁷ NYSCEF Doc. No. 1 (Petition) at ¶ 1.

6. According to Petitioners, the 2024 Plan—which was adopted by a Democratic-controlled Legislature and a Democratic Governor—allegedly “dilutes Black and Latino voting strength in CD-11.”⁸

7. While Petitioners bring their claim under Article III, § 4(c) of the NY Constitution, they invoke the standards of the later-enacted John R. Lewis Voting Rights Act (the “NYVRA”) as the basis for their claim.⁹

8. Petitioners allege that a remedial district may be drawn by pairing Staten Island with lower Manhattan.¹⁰

9. As relief, Petitioners seek a declaration that the 2024 map violates Article III, § 4(c)(1), a permanent injunction barring any future use of the 2024 Plan, and an order directing the Legislature to create a minority-influence district pairing Staten Island with lower Manhattan.¹¹

II. Petitioners’ evidence

A. Dr. Maxwell Palmer

10. Petitioners engaged Dr. Maxwell Palmer as an expert in redistricting, political science, and data analysis.¹²

11. Petitioners’ attorneys requested that Dr. Palmer offer an opinion on the extent to which voting is racially polarized in CD-11 and to evaluate the ability of Black and Hispanic preferred candidates to win elections in CD-11. Additionally, Petitioners’ attorneys requested that Dr. Palmer analyze the extent to which voting is racially polarized in the Illustrative Plan, and to

⁸ Petition ¶ 2.

⁹ Petition ¶¶ 9-13.

¹⁰ Petition ¶ 91.

¹¹ Petition ¶ 13; *see also* Petition, Prayer for Relief, at 27-28.

¹² Tr. 153:11-14.

evaluate the ability of Black and Hispanic preferred candidates to win elections in the Illustrative Plan.¹³

12. In the twenty elections that Dr. Palmer analyzed, he did not consider the race of the candidates.¹⁴

13. Despite being tasked with evaluating racial polarization in CD-11, Dr. Palmer testified that he did not consider causation for any polarization. According to Dr. Palmer, assessing causation of voter polarization is not “the purpose of this analysis or necessarily something we can do here.”¹⁵

14. On cross-examination, Dr. Palmer agreed that Black voters in CD-11 supported Black Democratic candidates at a rate (89.6%) very similar to the rate (90.9%) that Black voters supported non-Hispanic White Democratic candidates.¹⁶

15. Dr. Palmer also agreed that Hispanic voters in CD-11 supported Black Democratic candidates at a rate (86.3%) similar to the rate (88.5%) that Hispanic voters supported non-Hispanic White Democratic candidates.¹⁷

16. Dr. Palmer also acknowledged that White voters in CD-11 support Black Democratic candidates at a rate (24.9%) similar to the rate (27.6%) that White voters support non-Hispanic White Democratic candidates.¹⁸

17. During cross-examination, Dr. Palmer admitted that the improved performance of minority preferred candidates in the Illustrative Plan was driven in part by partisan geography

¹³ VEC Doc. No. 1-45 (“Palmer Report”) ¶ 4.

¹⁴ Tr. 223:14-25.

¹⁵ Tr. 226:9-13.

¹⁶ Tr. 225:10-17.

¹⁷ Tr. 225:18-25

¹⁸ Tr. 226:1-7.

through importing White Democratic voters and that improvement in the Illustrative Plan would not have occurred but for bringing in the White Democratic voters.¹⁹

B. William Cooper

18. Petitioners engaged Mr. William Cooper as a “demographic and redistricting expert.”²⁰

19. Petitioners’ attorneys requested that Mr. Cooper develop an illustrative plan that joins Staten Island with lower Manhattan in a reconfigured CD-11.²¹

20. According to Mr. Cooper, he did not conceive of the Staten Island–Manhattan configuration on his own²² or based on any independent evaluation of alternative remedies.²³

21. Likewise, Mr. Cooper admits that Petitioners’ counsel did not instruct him to consider whether there were other lawful configurations of CD-11 and CD-10.²⁴

22. On cross-examination, Mr. Cooper confirmed that Petitioners’ attorneys specifically asked him to “develop an illustrative plan that would join Staten Island with Manhattan in a reconfigured CD-11.”²⁵

23. Mr. Cooper testified that Petitioners’ counsel asked him to examine Staten Island, Lower Manhattan, and Brooklyn, and that he was not asked to examine the entire 2024 congressional plan.²⁶

24. Mr. Cooper testified that he did not consider adding more of Brooklyn or taking some of Brooklyn away from CD-11 without changing anything about Manhattan.²⁷

¹⁹ Tr. 235: 13-25; 236:1-7.

²⁰ VEC Doc. No. 1-5 (“Cooper Report”) ¶ 1.

²¹ Cooper Report ¶ 22

²² Tr. 335:22-23.

²³ Tr. 335:15-17.

²⁴ Tr. 336:4-11

²⁵ Tr. 302:10-14.

²⁶ Tr. 335:9-14.

²⁷ Tr. 337:3-6.

25. Rather, Mr. Cooper “did what [he was] asked to do.”²⁸

26. Mr. Cooper described this as a “mechanical task.”²⁹

27. In drawing the Illustrative Plan, Mr. Cooper communicated with Petitioners’ counsel about the plan during its development.³⁰

28. Mr. Cooper implemented Petitioners’ counsel’s request by retaining Staten Island in CD-11, shifting most of Lower Manhattan into CD-11, and moving the Brooklyn portion of CD-11 to CD-10.³¹

29. Mr. Cooper testified that he presented his plan to Petitioners to confirm that it met the requirements for the district they asked him to draw.³²

30. Mr. Cooper testified that he and Petitioners’ counsel settled on presenting only one illustrative plan despite acknowledging that many different options existed.³³

31. Mr. Cooper acknowledged that he did not discuss other possible plans in his report because they were not “meaningful.”³⁴

32. In fact, Mr. Cooper agreed that, to create a district joining Staten Island with lower Manhattan, he had “very few options.”³⁵

33. Mr. Cooper’s proposed map (the “Illustrative Plan”) is as follows:

²⁸ Tr. 335:21.

²⁹ Tr. at 335:19-22.

³⁰ Tr. 336:1-4.

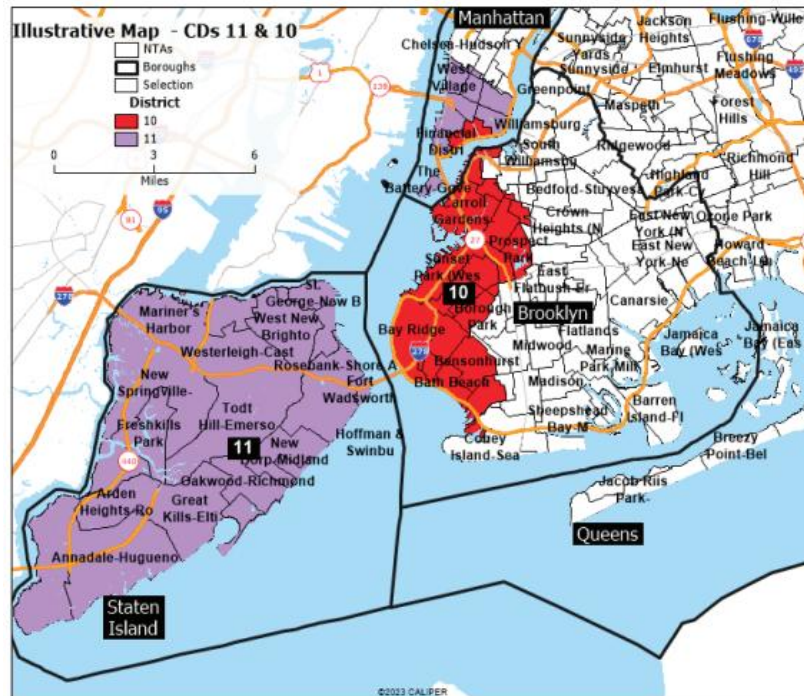
³¹ Cooper Report ¶ 23

³² Tr. 337:11-16.

³³ Tr. 336:4-11.

³⁴ Tr. 302:19-303:1.

³⁵ Tr. 303:21-25.



36

34. Asians are the largest single minority group in Congressional District 11 (CD-11) under the enacted 2024 plan, with Asian CVAP just under 17% and essentially evenly split between CD-10 and CD-11.³⁷

35. Under Mr. Cooper's Illustrative Plan, Asian CVAP in CD-11 drops materially to 12.4 percent, while Asian CVAP in CD-10 increases to approximately 23.4 percent, reflecting a substantial redistribution of Asian voters away from CD-11 and into CD-10.³⁸

36. Mr. Cooper acknowledged that his Illustrative Plan does not increase Asian representation in CD-11, but reduces Asian CVAP in CD-11 while correspondingly increasing Asian CVAP in CD-10, where Asians become a much stronger bloc than under the enacted plan.³⁹

³⁶ Cooper Report, pg. 16 (Figure 8).

³⁷ Cooper Report ¶ 29 (Figure 2).

³⁸ Cooper Report ¶ 50 (Figure 9); *see also* Tr. 361:14-25; 299:18-25.

³⁹ Tr. 361:6-25.

37. By contrast, the combined Black and Latino CVAP in CD-11 increases only modestly under Mr. Cooper's Illustrative Plan.

38. Under the enacted 2024 plan for CD-11, the Black CVAP is 7.36 percent and the Latino CVAP is 15.35 percent, for a combined Black-and-Latino CVAP of 22.70 percent.⁴⁰

39. Under Mr. Cooper's proposal, Black CVAP is 8.42 percent and Latino CVAP is 16.30 percent.⁴¹ The combined Black and Latino CVAP in CD-11 increases by only 2.01 percentage points from the 2024 Plan.⁴²

40. Even after the change, the combined Black-and-Latino share in the Illustrative Plan remains below one-quarter of CVAP at 24.71%.⁴³

41. The incremental increases for Black and Latino CVAP in the Illustrative Plan are also smaller than the contemporaneous increase in White non-Hispanic CVAP, which rises by approximately 2.6 percentage points.⁴⁴

i. Traditional Redistricting Principles

42. Mr. Cooper asserts that he drafted the Illustrative Plan by applying traditional redistricting principles, including equal population, contiguity, compactness, and preservation of communities of interest.⁴⁵

43. Mr. Cooper also contends that he considered core retention as a "background consideration," but that it did not "preempt traditional redistricting principles."⁴⁶

⁴⁰ Cooper Report ¶ 29.

⁴¹ Cooper Report ¶ 50 (Figure 9).

⁴² Cooper Report ¶ 50 (Figure 9).

⁴³ Cooper Report ¶ 50 (Figure 9).

⁴⁴ Compare Cooper Report ¶ 29 (Figure 2) with Cooper Report ¶ 50 (Figure 9).

⁴⁵ Cooper Report ¶ 26.

⁴⁶ Cooper Report ¶ 27.

a. Compactness

44. Mr. Cooper acknowledges in his own report that, “by the numbers,” his Illustrative Plan is less compact than the 2024 Plan. He attributes the reduction to the water and shoreline features created by joining Staten Island to Lower Manhattan by ferry, noting “[t]here is no population of voters between these two sub-parts of the illustrative CD 11—just Upper New York Bay.”⁴⁷

45. In attempting to mitigate the overall compactness decline, Mr. Cooper advances a novel rationale, asserting that the Staten Island piece of Illustrative CD-11 has the same compactness as under the 2024 Plan and that the lower Manhattan piece of Illustrative CD-11 is “compact” with scores of .48 (Reock) and .33 (Polsby–Popper).⁴⁸

46. Mr. Cooper then averages the separate scores for the Manhattan and Staten Island Components of the Illustrative CD-11 to suggest that it is compact.⁴⁹

b. Communities of Interest

47. Mr. Cooper agrees that “cultural ties are a consideration” for the communities of interest factor.⁵⁰

48. Yet, Mr. Cooper conceded that he lacked knowledge of the cultural attributes of lower Manhattan and Staten Island.⁵¹

49. Incredibly, Mr. Cooper testified that, in terms of culture, he believed the Financial District and Staten Island are similar because he “remember[s] having a very tasty outdoor pizza

⁴⁷ Cooper Report ¶ 54

⁴⁸ Cooper Report ¶¶ 55-57.

⁴⁹ Cooper Report ¶ 58.

⁵⁰ Tr. 317:18-21.

⁵¹ Tr. 317:23-320:3.

in the Financial District” that he “bought . . . from a Spanish-speaking gentleman[] [a]nd there are Spanish speakers in Staten Island.”⁵²

50. Mr. Cooper’s Illustrative Plan separates Manhattan’s Chinatown from the adjacent Lower East Side, placing Chinatown in CD-10 while leaving the Lower East Side in CD-11, notwithstanding New York City Redistricting Commission documentation identifying “Lower East Side/Chinatown” as a single Chinese community of interest.⁵³

51. Mr. Cooper did not interview any community leaders in determining to join Chinatown with Brooklyn.⁵⁴

52. Cooper did not collect or rely upon any survey data with respect to adding Chinatown to Brooklyn.⁵⁵

53. Mr. Cooper did not rely upon the letter of Dr. Wah Lee.⁵⁶

54. Mr. Cooper did not consider that the Asian American Legal Defense and Education Fund treats Chinatown and the Lower East Side as one Asian neighborhood.⁵⁷

55. Mr. Cooper conceded that Exhibit B to his report, a study by the New York City Districting Commission (“NYCDC”), was the “primary source” for his communities of interest analysis.⁵⁸

56. Despite admitting that the NYCDC report was his “primary source,” Mr. Cooper was forced to concede that he “did not read it thoroughly.”⁵⁹

⁵² Tr. 320:4-6.

⁵³ Cooper Report ¶¶ 24, 59–60; Cooper Report Ex. B at PET-239; Tr. 342:1-346:24.

⁵⁴ Tr. 343:13-19.

⁵⁵ Tr. 343:20-25.

⁵⁶ Tr. 344:1-7.

⁵⁷ Tr. 344:8-18; *see also* Asian American Neighborhood Boundaries and Current Districts, Sup Ct, Steuben County, Index No. E2022-0116CV, [NYSCEF Doc. No. 392](#) at 9

⁵⁸ Tr. 338:9-11.

⁵⁹ Tr. 346:6-11.

57. This explains Mr. Cooper's admission that he was "[n]ot aware" of the fact that the NYCDC also considers the Lower East Side as part of the Chinatown Asian community.⁶⁰

58. Mr. Cooper does not dispute that his Illustrative Plan splits the Lower East Side and Chinatown Asian communities.⁶¹

59. Ultimately, Mr. Cooper revealed that he knew nothing about communities of interest in drawing his Illustrative Plan because he believed the Petitioners would testify as fact witnesses:

Well, to be honest, **I was under the assumption there would probably be petitioners here to testify** as there usually are in federal court. In this case, there are not. **So I was going to defer to their testimony**, which I can only do now by way of this exhibit. You smile. **I must have said something very damaging. I'm sorry.**⁶²

60. Thus, Mr. Cooper effectively conceded that he lacks any knowledge as to communities of interest in his Illustrative Plan, and that, other than the NYCDC report, Mr. Cooper's report omits any such information because he believed it would be provided by other witnesses.

61. Mr. Cooper also confirmed he lacks any knowledge of communities of interest with respect to Chinese communities. He admitted that he "[did] not ma[ke] a personal survey of Chinatown to come to a final conclusion as to what they want" and he "did not take a poll."⁶³

62. In fact, Mr. Cooper's sole basis for concluding that the Chinese community in Chinatown desired to be joined in a district with Sunset Park was purportedly a letter that he did not disclose as a basis for his report.⁶⁴

⁶⁰ Tr. 345:3-10.

⁶¹ Tr. 346:18-24.

⁶² Tr. 329:15-20 (emphasis added).

⁶³ Tr. 332:11-13.

⁶⁴ Tr. 331:14-332:4.

c. Core Retention

63. Mr. Cooper testified that, in his view, “core retention” is not a traditional redistricting criterion but only a background consideration.⁶⁵

64. Consistent with that approach, Mr. Cooper did not present a quantitative core retention analysis in his report, and his testimony left unclear how, if at all, he materially weighed minimizing change when drawing the Illustrative Plan.

65. As detailed below, Mr. Bryan found that the Illustrative Plan degrades core retention.

66. On cross-examination, Mr. Cooper agreed that “to the extent practicable, election plans should keep the core population in prior districts together in new districts,” but he maintained that in this case he treated core retention as a mere background factor and prioritized other considerations.⁶⁶

ii. Mr. Cooper did not attempt to avoid a partisan gerrymander

67. Mr. Cooper claimed he did not consider party affiliation in drawing his illustrative district.⁶⁷

68. Mr. Cooper testified that the Maptitude software he used “does not include political data,” and he did not attach any political data to it.⁶⁸

69. Mr. Cooper further explained that the New York City Maptitude redistricting file he purchased contains “just the population data” with “nothing attached in terms of political data.”⁶⁹

⁶⁵ Tr. 251:16–252:3

⁶⁶ Tr. 305:21–306:2.

⁶⁷ Tr. 337:18–20.

⁶⁸ Tr. 338:15–21.

⁶⁹ Tr. 339:1–2.

70. Mr. Cooper acknowledged that while he uploaded his plan to Dave's Redistricting and used it to present an interactive map, he "didn't use it for redistricting."⁷⁰

71. The webpage hyperlinked in Mr. Cooper's report brings up the Illustrative Plan on Dave's Redistricting.⁷¹ This interactive webpage allows the user to view the Illustrative Map by "Partisan Lean" on a precinct-by-precinct basis.

72. Nevertheless, Mr. Cooper claims he had "no partisan data" and paid "no attention" to Dave's Redistricting's partisan data.⁷²

73. Mr. Cooper claims he was not aware whether his map made CD-11 more or less competitive for Republicans or Democrats, "only to the extent that [he] listened to Dr. Palmer's testimony."⁷³

74. Mr. Cooper testified that he did not consider the New York Constitution's provision that districts shall not be drawn to discourage competition or to favor or disfavor candidates or political parties, stating "that's up to the lawyers."⁷⁴

75. Mr. Cooper stated that he finalized his map without considering whether it could potentially violate the constitutional prohibition, explaining that he "prepared a map and it was pre-cleared by the attorneys for the petitioners."⁷⁵

76. Mr. Cooper acknowledged he was aware that the New York Constitution contains such language, even though he did not consider it when drawing the map.⁷⁶

⁷⁰ Tr. 339:3-13.

⁷¹ Cooper Report ¶ 45.

⁷² Tr. 364:13-16.

⁷³ Tr. 364:1-6.

⁷⁴ Tr. 364:19-25.

⁷⁵ Tr. 365:1-4.

⁷⁶ Tr. 365:9-13.

III. Respondents' evidence

A. Dr. John Alford

77. Respondents offered the testimony of Dr. John Alford, an expert in voter dilution and polarization.

i. Qualifications

78. Dr. Alford is a tenured Full Professor of Political Science at Rice University. He has taught courses on redistricting, elections, political representation, voting behavior and statistical methods at both the undergraduate and graduate levels.⁷⁷

79. Dr. Alford has worked for local municipalities and school boards in drawing district plans and has advised municipalities and school boards regarding Voting Rights Act issues.⁷⁸

80. The parties stipulated that Dr. Alford is an expert in his field.

ii. Dr. Alford's Methodology

81. Dr. Alford was asked to assess the voter polarization in Dr. Palmer's report.⁷⁹

82. Dr. Alford accepted Dr. Palmer's methodology and used Dr. Palmer's data and evaluations in forming his own conclusions.⁸⁰

83. Dr. Alford also compared Dr. Palmer's analysis of minority preferred candidates in CD-11 to Dr. Palmer's analysis of minority preferred candidates in the Illustrative Plan.⁸¹

84. Dr. Alford examined the race of the candidates in the elections analyzed by Dr. Palmer.⁸² Dr. Alford testified that the race of candidates is always important in this analysis and,

⁷⁷ [VEC Doc. No. 1-44](#) ("Alford Report") at 3.

⁷⁸ *Id.*; Tr. 675:17-25.

⁷⁹ Tr. 676:6-9.

⁸⁰ Tr. 676:10-19.

⁸¹ Tr. 678:8-18.

⁸² Tr. 681:14-25.

in his forty years of experience, he has never been involved in a case where the race or ethnicity of the candidate was irrelevant.⁸³

iii. Dr. Alford's Conclusions and Opinions

85. Dr. Alford concluded that there is lower cohesion of Black voters and Hispanic voters in the Illustrative Plan as compared to CD-11 without changing the overall minority vote shares in the Illustrative Plan and that non-Hispanic White and Asian voters in the Illustrative Plan are substantially more likely to vote Democratic than in CD-11.⁸⁴

86. Dr. Alford testified that Petitioners' proposed Illustrative Plan would replace a competitive CD-11 district that leans Republican with a district that leans Democratic.⁸⁵

87. Petitioners accomplish this replacement by adding more Democratic leaning White and non-Hispanic Asian voters from lower Manhattan. Dr. Alford describes this as partisan substitution and testified that it reflects a very strong influence of partisanship on the polarization identified by Dr. Palmer in CD-11.⁸⁶

88. Dr. Alford agrees that there is polarization in CD-11 and testified that voter polarization is increasingly common.⁸⁷

89. Dr. Alford opined that, based solely on the empirical evidence in Dr. Palmer's report, the degree of partisan polarization identified by Dr. Palmer in CD-11 matches the overall polarization in that district.⁸⁸

90. Dr. Alford further opined that, based solely on the empirical evidence and analysis in Dr. Palmer's report, the polarization identified by Dr. Palmer in CD-11 is not racial.⁸⁹

⁸³ Tr. 682:2-25; 683:1-7.

⁸⁴ Tr. 678:19-25; 679:1-8.

⁸⁵ Tr. 680:14-23.

⁸⁶ Tr. 680:24-25; 681:1-13.

⁸⁷ Tr. 684:14-20.

⁸⁸ Tr. 684:21-25; 685:1-4.

⁸⁹ Tr. 685-17-25; 686:1-25; 687: 1-13.

91. Dr. Alford concluded that the illustrative district is a partisan gerrymander.⁹⁰

B. Thomas Bryan

92. Respondents offered the testimony of Thomas Bryan, an expert in demography and redistricting.

i. Qualifications

93. Thomas M. Bryan is an applied demographer with three decades of experience. He offered his opinions to a reasonable degree of professional certainty.⁹¹

94. Mr. Bryan's background includes service as a statistician at the U.S. Census Bureau, where he worked on the development and transition to the American Community Survey (ACS) from the long-form census questionnaire. He explained that ACS-derived citizen voting-age population (CVAP) is a standard metric for assessing potential voting strength in redistricting analysis.⁹²

95. In 2024, Mr. Bryan was appointed to the Census Bureau's 2030 Census Advisory Committee as one of twenty national experts, serving as an independent, objective adviser on the planning, collection, management, analysis, and publication of 2030 Census data.⁹³

96. Mr. Bryan's scholarly publications include a 2018 Social Science Quarterly article coauthored with M.V. Hood and Peter A. Morrison detailing a practical framework for vote-dilution analysis,⁹⁴ and a 2019 book, "Redistricting: A Manual for Analysts, Practitioners, and Citizens," coauthored with Dr. Morrison, which provides a comprehensive guide to census data and methods for redistricting applications.⁹⁵

⁹⁰ Tr. 701:1-8.

⁹¹ Bryan Report at 6-9.

⁹² Tr. 482:1-23.

⁹³ Bryan Report, section XII, Thomas M. Bryan Vitae; Tr. 484:12-485:4

⁹⁴ Tr. 484:22-485:2.

⁹⁵ Bryan Report ¶ 6.

97. Mr. Bryan's technical expertise spans the design and use of complex databases that integrate decennial census, ACS, and election data for Gingles analyses, risk assessments, and state and federal Voting Rights Act evaluations. He regularly employs ACS, ACS Public Use Microdata (ACS PUMS), the Current Population Survey Voting Supplement (CPS), the Cooperative Election Study (CES), the Election Administration and Voting Survey (EAVS), and spatial data within GIS platforms to conduct precinct- and block-level analysis of population and voting patterns.⁹⁶

98. Mr. Bryan affirmed that his opinions in this matter are offered to a reasonable degree of professional certainty and that his compensation is not contingent on the content of his opinions or the outcome of the litigation, supporting the independence of his analyses.⁹⁷

99. The parties stipulated that Mr. Bryan is qualified as an expert in his field.

ii. Mr. Bryan's analysis of the Illustrative Plan

100. Based on ACS CVAP data, Mr. Bryan found that under the Illustrative Plan, CD-11's White non-Hispanic CVAP increases by 2.6 percentage points, Any-Part-Black by 1.1 points, and Hispanic by 0.9 points, while Asian CVAP decreases by 4.6 points, relative to the 2024 plan.⁹⁸

101. Mr. Bryan attempted multiple exploratory configurations—splitting Staten Island and relaxing compactness—to test whether combined Black and Hispanic CVAP could be meaningfully increased between CDs 10 and 11.⁹⁹

102. Mr. Bryan testified he could not draw any configuration pairing Staten Island with Lower Manhattan that meaningfully increases combined Black and Hispanic CVAP while

⁹⁶ Bruan Report ¶¶ 5-9.

⁹⁷ Bryan Report ¶ 13; Tr. 487:6-9.

⁹⁸ Bryan Report ¶¶ 40, 74, 197.

⁹⁹ Tr. 488:1-22; 494:10-496:12.

achieving population equality, even when splitting Staten Island and “threading the needle” around White non-Hispanic areas.¹⁰⁰

103. Mr. Bryan explained that the geographic distribution of Black and Hispanic CVAP—a compact North Shore Staten Island cluster and a small Lower East Side pocket—are separated by intervening areas with high White non-Hispanic concentrations, which constrains the ability to materially increase Black and Hispanic voters in CD-11.¹⁰¹

104. The record contains no contrary draw or feasibility analysis demonstrating that a Staten Island–Lower Manhattan district can meaningfully increase combined Black and Hispanic CVAP while meeting equal-population requirements, meaning Mr. Bryan’s testimony on the feasibility of drawing such a district is un rebutted.

105. Mr. Bryan concluded that Asians are the largest single minority CVAP in enacted CD-11 and would be substantially reduced under the Illustrative CD-11.¹⁰²

iii. Traditional Redistricting Criteria

106. Mr. Bryan agreed with Mr. Cooper that traditional redistricting criteria should apply in this case.¹⁰³

a. Compactness

107. It is undisputed that the Illustrative Plan is inferior on compactness when measured using quantitative tests.

108. Mr. Bryan further testified that the qualitative “eyeball” test is an additional, appropriate measure of compactness.¹⁰⁴

¹⁰⁰ Tr. 488:17–22; 495:1–25; 496:4–11.

¹⁰¹ Tr. 505:22–506:18.

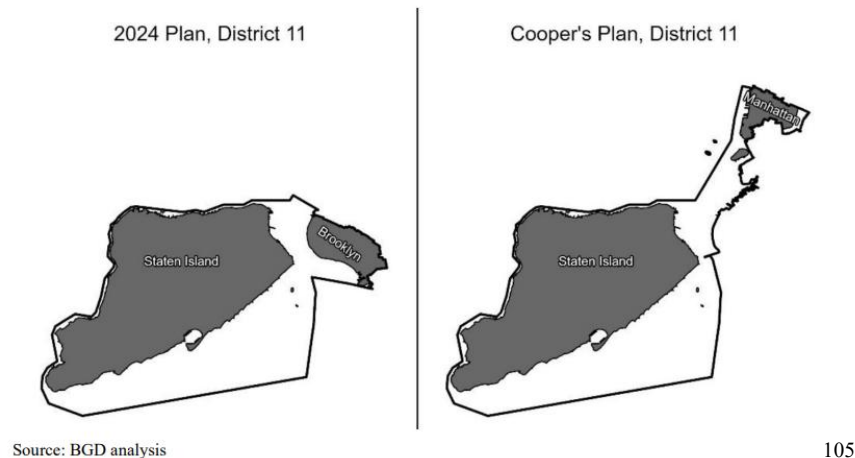
¹⁰² Bryan Report ¶¶ 38, 40, 74.

¹⁰³ Tr. 347:16–18.

¹⁰⁴ Tr. 509:10.

109. Using the following figure, Mr. Bryan opined that the Illustrative Plan fails to satisfy the eyeball test for compactness:

Figure V.C.1 Compactness of D11 from 2024 Plan to Cooper's Illustrative Plan



110. Mr. Bryan explained that the Illustrative Plan does not satisfy the eyeball test because there is an “appendage or tentacle that reaches out to grab a piece of population.”¹⁰⁶

b. Communities of Interest

111. Using current precinct files, Mr. Bryan found that the 2021 and 2024 plans split no current precincts, whereas the Illustrative Plan splits 12.¹⁰⁷

112. Mr. Bryan also concluded that the Illustrative Plan fragments cohesive Asian neighborhoods and substantially reduces Asian CVAP in CD-11 while increasing Asian CVAP in CD-10, thereby significantly altering representation for the largest minority in CD-11.¹⁰⁸

113. In Mr. Bryan’s expert opinion, the Illustrative Plan does not satisfy the communities of interest principle because it splits contiguous Chinese American populations in Lower

¹⁰⁵ Bryan Report ¶ 144 (Figure V.C.1).

¹⁰⁶ Tr. 510:15-18.

¹⁰⁷ Bryan Report ¶¶ 155–159, Table VI.A.1.

¹⁰⁸ Bryan Report at 38; 56–59; 74; ¶ 197.

Manhattan and purports to connect Chinatown with distant, demographically dissimilar Brooklyn neighborhoods.¹⁰⁹

114. Mr. Bryan explained that, although Petitioners keep the formal Chinatown NTA in CD-10, their line “structurally separates large numbers of contiguous Chinese population” in Lower Manhattan and then links Chinatown to Sunset Park and Bensonhurst across multiple intervening non-Asian neighborhoods (Brooklyn Heights, Carroll Gardens, Park Slope).¹¹⁰

115. Mr. Bryan rebutted Petitioners’ claim that uniting Chinatown with Sunset Park, Bensonhurst, and Bath Beach “advances” Chinese American communities of interest by showing material socioeconomic and demographic differences among those Brooklyn neighborhoods and Chinatown, as well as their geographic separation from Lower Manhattan.¹¹¹ He opined that Bensonhurst’s median income is significantly higher than Sunset Park’s and Chinatown’s, that Bensonhurst is majority White while Sunset Park is majority Hispanic, and that the Asian sub-groups differ across these areas—facts inconsistent with a single, cohesive community of interest spanning the East River.¹¹²

116. Mr. Bryan further established that the Illustrative Plan splits Asian communities who are “literally across the street from each other.”¹¹³

117. This is demonstrated by the following figure in Mr. Bryan’s report:

¹⁰⁹ Bryan Report ¶ 53.

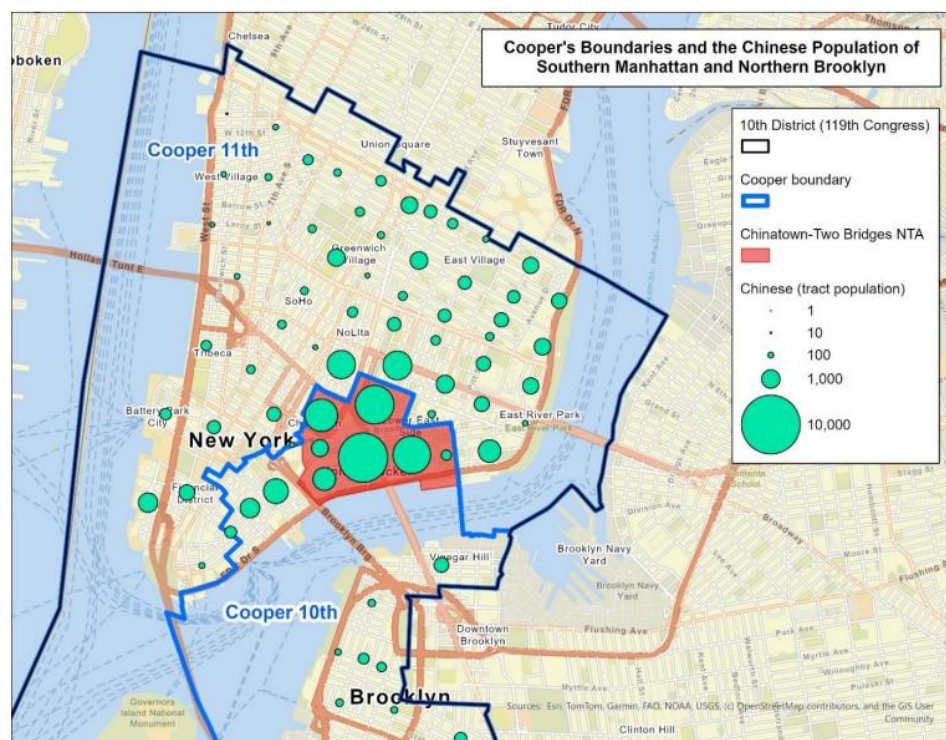
¹¹⁰ Bryan Report ¶ 53.

¹¹¹ Bryan Report ¶ 170.

¹¹² Bryan Report ¶ 170.

¹¹³ Tr. 515:21-22.

Figure VI.C.2 Chinese Population



114

118. The green circles represent Chinese population by size, and the blue line shows the boundary of the Illustrative Plan. As Mr. Bryan explained, the Illustrative Plan draws a line separating substantial numbers of Chinese population who live in close proximity to each other.¹¹⁵

119. Mr. Bryan testified it is not possible to connect Staten Island to Lower Manhattan without splitting Asian communities.¹¹⁶

120. Mr. Bryan also rebutted Petitioners' contention that commuters from Staten Island to Manhattan form a unique community of interest.

121. Contrary to Petitioners' presentation, Mr. Bryan testified that nearly half of Staten Island workers work in Staten Island itself and that a substantial number work in Brooklyn—about 43,000—so more Staten Islanders work in Staten Island and Brooklyn than in Manhattan.¹¹⁷

¹¹⁴ Bryan Report at 58 (Figure VI.C.2).

¹¹⁵ Tr. 516:3-17.

¹¹⁶ Tr. 517:6-24.

¹¹⁷ Tr. 528:4-529:5; 529:18-530:8.

c. Core Retention

122. Mr. Bryan concluded that the Illustrative Plan does not satisfy the principle of core retention.¹¹⁸

123. Under the Illustrative Plan, Bryan found significant movement of CVAP. In CD-11, 31.5% of CVAP would move overall, including 12.9% of Black CVAP and 57.1% of Asian CVAP, compared to 27.6% of White non-Hispanic and 26.5% of Hispanic CVAP.¹¹⁹

124. Significantly, Mr. Bryan found that nearly 60% of the Asian population was moved out of CD-11.¹²⁰

125. Bryan testified that moving roughly a third of the district's population produces only about two percentage points of combined change for Black and Hispanic CVAP in CD-11.¹²¹

d. Political Performance

126. Mr. Bryan also analyzed political performance under the Illustrative Plan.

127. To do so, Mr. Bryan evaluated the political performance of the precise precincts Mr. Cooper moves between CDs 10 and 11 and aggregated those precinct-level results to Mr. Cooper's proposed districts.¹²² Mr. Bryan's testimony on this point is unrebutted.

128. Mr. Bryan found that the precincts moved from CD-10 into CD-11 were "almost uniformly, extremely high performing Democratic districts," while precincts moved from CD-11 into CD-10 were approximately 42% Democratic in the 2024 Presidential and House races and about 47% Democratic in the 2024 U.S. Senate race.¹²³

¹¹⁸ Tr. 534:4-6.

¹¹⁹ Bryan Report at 63 (Table VII.B.1).

¹²⁰ Tr. 533:9-11.

¹²¹ Tr. 533:20-534:6.

¹²² Bryan Report ¶¶ 191-193; Tr. 534:20-535:5.

¹²³ Tr. 537:2-20; Bryan Report ¶¶ 192-193, Table VIII.E.1.

129. Mr. Bryan's Table VIII.E.1 reports that moved-in precincts averaged 80.2% Democratic (Presidential), 81.4% Democratic (U.S. Senate), and 80.5% Democratic (U.S. House), whereas moved-out precincts averaged 41.5%, 47.0%, and 41.9% Democratic, respectively.¹²⁴

130. Mr. Bryan concluded that this asymmetric precinct movement evidences a political intent, making it "difficult to arrive at the conclusion that Mr. Cooper's draw is intended to somehow benefit the two smaller minority populations in and around the district."¹²⁵

Dated: January 16, 2026
Albany, New York

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¹²⁴ Bryan Report ¶¶ 192–193; Table VIII.E.1.

¹²⁵ Bryan Report ¶¶ 194–197.

CERTIFICATE OF COMPLIANCE

I certify that no generative artificial intelligence program was used in the drafting of this submission.

Dated: January 16, 2026
Albany, New York

/s/ Nicholas J. Faso

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