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**Supreme Court of the State of New York  
Appellate Division – First Department**

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**No. 2026-00384**

MICHAEL WILLIAMS, et al.,

*Petitioners-Respondents,*

v.

BOARD OF ELECTIONS OF THE STATE OF NEW YORK, et al.,

*Respondents-Respondents,*

PETER S. KOSINSKI, et al.,

*Respondents-Appellants,*

NICOLE MALLIOTAKIS, et al.,

*Intervenors-Appellants.*

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**MEMORANDUM OF LAW FOR RESPONDENTS  
HOCHUL, HEASTIE, STEWART-COUSINS & JAMES  
IN RESPONSE TO APPELLANTS' MOTIONS FOR A STAY**

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## PRELIMINARY STATEMENT

In this proceeding, Supreme Court, New York County (Pearlman, J.) issued a decision and order declaring that New York’s Eleventh Congressional District (CD11) unconstitutionally dilutes the votes of Black and Latino voters in violation of Article III, § 4(c)(1) of the New York Constitution. The court enjoined respondents from conducting any election under or giving effect to the boundaries of the existing congressional map. The court also ordered a nonparty, the Independent Redistricting Commission (IRC), by February 6, 2006, to convene and to complete a new congressional map that remedies the constitutional violation that the court found. *See* Decision & Order at 18 (Jan. 21, 2026).<sup>1</sup>

Appellants are two sets of respondents below—Republican members and officials at the State Board of Elections (the “Republican SBOE Respondents”), and several individuals—including the district’s current congressional representative and several voters—who intervened

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<sup>1</sup> The Decision and Order is attached as Exhibit A to Affirmation of Bennet J. Moskowitz in Support of Motion for Stay, Interim Stay, & Leave to Appeal (Jan. 27, 2026), NYSCEF No. 11 (“Moskowitz Affirm.”). Unless otherwise indicated, NYSCEF docket numbers refer to filings in this Court.

as respondents below (“Intervenor Respondents”).<sup>2</sup> Appellants have moved this Court for a stay of Supreme Court’s order pending their appeals, and have also sought leave to appeal to the Court of Appeals from this Court.<sup>3</sup>

This Office represents the State Respondents—Governor Kathy Hochul, Senate Majority Leader and President Pro Tempore Andrea Stewart-Cousins, Assembly Speaker Carl E. Heastie, and Attorney General Letitia James—in this proceeding. The State Respondents take no position on the appellants’ ultimate request for a stay of Supreme Court’s order pending appeal, or from the appellants’ request for leave to appeal to the Court of Appeals. Instead, the State Respondents submit this response to set forth their position on certain issues that may bear

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<sup>2</sup> The Republican SBOE Respondents are Peter S. Kosinski, Anthony J. Casale, and Raymond J. Riley, III. The Intervenor Respondents are Congresswoman Nicole Malliotakis, Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba.

<sup>3</sup> Appellants also filed notices of appeal directly to the Court of Appeals pursuant to C.P.L.R. 5601(b)(2), but those notices were all returned for correction (Sup. Ct. NYSCEF Nos. 228, 230, 232, 238, 241, 244) and have sought stays pending appeal in that venue. See *infra* at 10-11.

on the Court's consideration of appellants' motions and the scope of any stay, if the Court were to issue one.

First, if the Court issues a stay pending appeal (an issue on which State Respondents take no position any such stay should be crafted to allow the IRC to take necessary preparatory steps to move forward during the pendency of the appeal, given the potential need for contingency planning, and prompt action to implement redrawn district lines, should the order on appeal be affirmed. Second, the court below correctly determined that the New York Voting Rights Act is not relevant to interpreting the vote-dilution provisions of § 4(c)(1). Third, Supreme Court also correctly concluded that § 4(c)(1)'s vote-dilution provisions are not limited to providing the same protections provided by the federal Voting Rights Act. Fourth, the Equal Protection Clause of the Federal Constitution does not preclude the remedy ordered by the court below. Finally, it is doubtful that this Court has the authority to grant leave to appeal directly from an order of the Supreme Court under the circumstances presented here. State Respondents take no position on other issues not addressed herein, or on whether petitioners are ultimately likely to succeed on the merits of their claims.

## BACKGROUND

On October 24, 2025, Petitioners<sup>4</sup> commenced this proceeding alleging that the current congressional map, which was enacted into law in 2024, unconstitutionally dilutes the votes of Black and Latino voters in CD11 in violation of Article III, Section 4(c)(1) of the New York Constitution. Pet. at 2, 14-18 (Oct. 24, 2025) (Moskowitz Affirm., Ex. G)). *See generally* State Law § 111 (statutory codification of congressional map challenged here).

That state constitutional provision states that “[s]ubject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements,” certain “principles shall be used in the creation of state senate and state assembly districts and congressional districts.” N.Y. Const. art. III, § 4(c). One of the listed principles is: “[w]hen drawing district lines, the [IRC] 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

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<sup>4</sup> Petitioners are four individual voters, Michael Williams, Jose Ramirez-Garofalo, Aixa Torres, and Melissa Carty.

purpose of, nor shall they result in, the denial or abridgement of such rights.” *Id.* § 4(c)(1). The constitutional provision then states 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.” *Id.*

Petitioners argued that § 4(c)(1)’s constitutional provisions—which were part of constitutional amendments adopted in 2014—should be read to effectively incorporate the New York Voting Rights Act’s (NYVRA) separate and distinct vote-dilution provisions. *See* Pet. at 3, 13-14; Mem. of Law in Support of Pet. at 14-19 (Nov. 19, 2025), Sup. Ct. NYSCEF No. 63; *see also* 2012 N.Y. Senate/Assembly Concurrent Resolution No. S. 6698/A. 9526 (Mar. 15, 2012) (amending Constitution article III). The petitioners made this argument even though the NYVRA was enacted in 2022, approximately eight years after § 4(c)(1)’s enactment, and does not apply to congressional or state legislative districts. *See infra* at 15-16.

As relief, the petitioners sought, *inter alia*, declaratory relief stating that CD11 unconstitutionally dilutes the votes of Black and Latino voters in violation of § 4(c)(1); injunctive relief enjoining respondents from

conducting any election or otherwise enforcing or giving effect to any of the boundaries under the current congressional map; and an order compelling the Legislature to adopt a congressional map in which CD11 extends from Staten Island into lower Manhattan (instead of into southern Brooklyn, as it does currently) to create a “minority influence district in which Black and Latino voters on Staten Island could combine with diverse communities of interest in lower Manhattan to elect their candidate of choice.” Pet. at 5; *see id.* at 27-28; Decision & Order at 2.

Supreme Court presided over a four-day trial in early January 2026, at which both the petitioners and the participating respondents—the Intervenor Respondents and the Republican SBOE Respondents—presented evidence and arguments as to their claims and defenses, respectively. State Respondents took no position on the merits of petitioners’ claims. State Respondents provided their views with respect to various legal principles at issue in the case in a pretrial letter response to the petition. *See* Letter from S. Farber to Hon. J.H. Pearlman (Dec. 8, 2025) (Moskowitz Affirm., Ex. J).<sup>5</sup>

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<sup>5</sup> The Democratic members and officers of the SBOE (the “Democratic SBOE Respondents”), who were also named as respondents  
*(continued on the next page)*

On January 21, 2026, Supreme Court issued a decision and order concluding that CD11 unconstitutionally dilutes the votes of Black and Latino voters in violation of § 4(c)(1). The court rejected petitioners' argument that the NYVRA's vote-dilution standards should be effectively incorporated into § 4(c)(1)'s constitutional provisions. Decision & Order at 5. The court explained that the NYVRA was enacted years *after* the constitutional amendments that adopted § 4(c)(1), and that neither § 4(c)(1)'s text or legislative history suggested that its scope should be interpreted based on subsequently enacted state statutes. *Id.*

Supreme Court then ruled that § 4(c)(1) nevertheless provides for a vote-dilution claim, like petitioners' claim here, that alleges that district lines improperly reduce the influence of voters who are members of protected racial groups—where members of those groups are not alleged to make up the majority of a differently drawn district. *See id.* at 7. In so ruling, Supreme Court reasoned that § 4(c)(1) should be interpreted to

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in the petition, filed a separate pretrial letter joining in the State Respondents' letter. *See* Letter from B. Quail to Hon. J.H. Pearlman (Dec. 8, 2025), Sup. Ct. NYSCEF No. 98. The Democratic SBOE Respondents were not (and are not) represented by this Office in this proceeding. Neither the State Respondents nor the Democratic SBOE Respondents participated at trial.

provide greater protection against vote dilution than the federal VRA. *Id.* at 5-6.

The court further reasoned that such a vote-dilution claim exists under § 4(c)(1) where, based on the totality of the circumstances, racial or language minority groups have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice. *Id.* at 5 (quoting § 4(c)(1)). The court stated that, in assessing the totality of circumstances, it looked to the nonexhaustive totality-of-the-circumstances factors considered in evaluating federal VRA claims—which the court considered relevant though not binding. *Id.* at 7-8. The court found various of these factors to be present here. *Id.* at 8-12.

The court further stated that, to determine whether “redrawing of the congressional lines is a proper remedy,” petitioners “must first show that minority voters make up a sufficient portion of the district’s population.” *Id.* at 13. The court concluded that this standard could be satisfied under § 4(c)(1) where minority voters do not constitute a majority of the voters in the district but do “comprise a sufficiently large portion of the

population of the district's voting population that they would be able to influence electoral outcomes." *Id.* at 13.

The court then stated that this standard could be satisfied where: (i) "minority voters (including from two or more ethnic groups) are able to select their candidates of choice in the primary election"; (ii) "these candidates must usually be victorious in the general election"; and (iii) "the reconstituted district should also increase the influence of minority voters, such that they are decisive in the selection of candidates." *Id.* at 15. The court found these standards satisfied here, concluding that the totality of the circumstances indicated that the district lines as currently drawn resulted in the dilution of Black and Latino voters' votes, *see id.* at 12-13, and suggesting that petitioners' proposed remedial map was one that satisfied the standard it had articulated, *see id.* at 15.

Although Supreme Court concluded that redrawing CD11 was a proper remedy, it rejected petitioners' request to order the Legislature to adopt petitioners' proposed remedial map. *Id.* at 15-17. Instead, based on the approach taken by this Court in *Matter of Hoffman v. New York State Independent Redistricting Commission*, 41 N.Y.3d 341 (2023), Supreme

Court directed the IRC to reconvene and to redraw the boundaries of CD11 “so that it comports with the standard” described in the court’s decision. Decision & Order at 17. The court further directed the IRC to complete this court-ordered task by February 6, 2026.<sup>6</sup> The court also enjoined all respondents from conducting any election under the existing map. *Id.* at 18. The court further ordered that the case would “not be deemed resolved until the successful implementation of a new Congressional Map complying with this order.” *Id.* at 18.

The Intervenor Respondents and Republican SBOE appealed to this Court and sought an interim stay by an application for interim relief and a stay of Supreme Court’s order pending their appeals, as well as leave to appeal to the Court of Appeals. *See* Intervenor Resp’ts’ Mem. of Law in Supp. of Emergency Mot. for Interim Stay, Stay & Leave to

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<sup>6</sup> The February 6 deadline was selected based on the Republican SBOE Respondents’ representations regarding the election calendar. Decision & Order at 17. The IRC and its members were not named as respondents in the petition and were not parties to the proceeding at the time of Supreme Court’s ruling below. After Supreme Court issued the decision below, petitioners filed a motion seeking to join the IRC and its members as parties by order to show cause pursuant to C.P.L.R. 1001(a). *See* Order to Show Cause (Proposed) (Jan. 26, 2026), Sup. Ct. NYSCEF No. 226. As of the date of the filing of this response, Supreme Court had not acted on the proposed Order to Show Cause.

Appeal (Jan. 28, 2026), NYSCEF No. 11 (“Intervenor-Resp’ts’ Mem.”); Appellants’ Mem. of Law in Supp. of Mot. for Discretionary Stay (Jan. 28, 2026), NYSCEF No. 13 (“Republican SBOE Resp’ts’ Mem.”). They each also appealed directly to the Court of Appeals as a matter of right, and filed similar motions for a stay and emergency interim relief in that venue. *See* Letter from B. Moskowitz to Hon. S. Rojas (Jan. 30, 2026), NYSCEF No. 15 (“Moskowitz Letter”).

On January 29, 2026, Judge Cannataro denied appellants’ request for emergency interim relief in the Court of Appeals and ordered the nonmoving parties to file responses to the motions. *See* Order, APL-2026-00010 (N.Y. Jan. 29, 2026) (Moskowitz Letter, Ex. A). The Court of Appeals also informed the parties that it was considering whether it has jurisdiction over the direct appeals, and provided the parties with an opportunity to address three questions relating to its jurisdiction. *See* Letter from Hon. H. Davis to B. Moskowitz, et al. (Jan. 29, 2026) (Moskowitz Letter, Ex. A).

On January 30, 2026, this Court referred appellants’ motions to a full panel without addressing their requests for emergency interim relief.

See Order (Jan. 30, 2026), NYSCEF No. 17; Order (Jan. 30, 2026), NYSCEF No. 18.

## ARGUMENT

### **I. ANY STAY ENTERED BY THE COURT SHOULD NOT PRECLUDE THE INDEPENDENT REDISTRICTING COMMISSION FROM TAKING PREPARATORY STEPS TO COMPLY WITH THE ORDER ON APPEAL.**

State Respondents take no position on whether the Court should grant appellants' requested stay of Supreme Court's order pending appeal. However, if the Court were to enter a stay, State Respondents respectfully suggest that any such stay should be crafted so as not to preclude the IRC from engaging in preparatory steps to comply with the order on appeal.

There is no question that the relief requested by the petitioners presents challenges with regard to the upcoming 2026 election calendar. See Decision & Order at 16; Intervenor-Resp'ts' Mem. at 49-50; Republican SBOE Resp'ts' Mem. at 29-32. If the Court issues a stay, then ensuring that any such stay does not preclude the IRC from taking preparatory steps to comply with the order below would help mitigate those challenges. Specifically, if the order below is ultimately affirmed on appeal, state officials and entities that need to implement the order would be able to more promptly and efficiently do so if the IRC has, during the pendency of

the appeals, been able to take any preparatory steps that may be needed before any remedial map can be adopted.<sup>7</sup> And putting state officials and entities in the best position possible to promptly implement a remedial map in time for the 2026 election, if the order below is affirmed, will reduce delay and confusion—to the benefit of voters, candidates, and the public interest.

Such preparatory steps are not precluded by any automatic stay that might have been triggered under C.P.L.R. 5519(a)(1) by the Republican SBOE respondents' appeal. *Contra* Intervenor-Resp'ts' Mem. at 49-50; Republican SBOE Resp'ts' Mem. at 15-16. In relevant part, that automatic stay provision “stays all proceedings to enforce the judgment or order appealed from,” where the appellant is “any officer or agency of the state or of any political subdivision of the state.” C.P.L.R. 5519(a)(1). Here, even assuming the automatic stay is triggered by the Republican SBOE Respondents' appeal, such a stay would apply to “proceedings to *enforce*

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<sup>7</sup> By way of examples, such steps might include (but would not be limited to) developing a timeline and schedule, planning for public hearings (if any), retaining consultants and counsel, and developing draft remedial maps. State Respondents do not take any position on which of these potential preparatory steps might be required.

the judgment or order appealed from.” *Id.* (emphasis added). It would “not prohibit the IRC or its members from taking any actions,” *Matter of Hoffman v. New York State Indep. Redistricting Commn.*, 40 N.Y.3d 968, 968 (2023), including preparatory steps that may be needed for any remedial map to be implemented if the order appealed from is affirmed.

Nor would allowing such preparatory steps (if the Court grants a stay) prejudice or harm the movants. They would still get effective relief because respondents would not be enjoined from proceeding with the 2026 election under the existing map during the pendency of the appeals.

## **II. SUPREME COURT CORRECTLY RULED ON SEVERAL LEGAL PRINCIPLES AT ISSUE HERE.**

In State Respondents’ view, Supreme Court’s decision is correct as to several legal principles at issue here. *See generally DeLury v. City of New York*, 48 A.D.2d 405, 405 (1st Dep’t 1975) (“A reasonable probability of ultimate success, as well as the prospect of irreparable harm, is sine qua non for injunction pending trial.”). State Respondents do not take any position on the correctness of Supreme Court’s decision as to other principles or conclusions not addressed herein. Nor do State Respondents

take a position on whether petitioners are ultimately likely on appeal to succeed on the merits of their claims.

**A. The New York Voting Rights Act Is Irrelevant Here.**

Supreme Court correctly determined that, contrary to petitioners' arguments, the NYVRA's vote-dilution provisions are not relevant to interpreting § 4(c)(1)'s constitutional vote-dilution provisions. As Supreme Court explained, the constitutional amendments that created § 4(c)(1)'s vote-dilution provisions were adopted in 2014, approximately eight years before the NYVRA's enactment in 2022. *See* Decision & Order at 5. *See supra* at 7. And neither the text nor the legislative history of § 4(c)(1) suggests that it was intended to be interpreted as incorporating standards from subsequently enacted state statutory provisions. *See* Decision & Order at 5.

Moreover, § 4(c)(1)'s vote-dilution provisions apply to the State's apportionment of congressional, state assembly, and state senate districts. *See* N.Y. Const., art. III, § 4(b). By contrast, the NYVRA's vote-dilution provisions apply only to "boards of elections" and "political subdivisions" of the State, *see* Election Law §§ 17-204(4), 17-206, and not to the State itself. Accordingly, the State's apportionments of congressional, state

assembly, and state senate districts are outside the scope of the NYVRA. See *Town of Greenburgh v. State of N.Y.*, Index No. 76400/2024, slip op. at 13-15 (Sup. Ct. Westchester County July 25, 2025); 13 N.Y.C.R.R. § 501.3(e). The NYVRA is thus irrelevant to petitioners' challenge here, which concerns solely a congressional district.

**B. The New York Constitution Provides Greater Protections Against Vote Dilution Than the Federal Voting Rights Act.**

Supreme Court correctly determined that § 4(c)(1)'s vote-dilution provisions are not limited to the federal statutory vote-dilution protections provided under the federal VRA.

Section 4(c)(1) 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.” N.Y. Const. art. III, § 4(c)(1). State Respondents do not take a position as to the particular standard under which a given petitioner can establish a claim of vote dilution under this state constitutional provision.

But Supreme Court correctly determined that § 4(c)(1) was intended to provide broader rights for affected groups of voters to bring challenges

with respect to voting rights than those provided under federal law. When New York amended its constitution in 2014, including adoption of § 4(c)(1), it did so to stand apart from federal protections and to “guarantee[] the application of substantive criteria that protect minority voting rights.” *See* Assembly Mem. in Support, 2013 N.Y. Senate-Assembly Concurrent Resolution S. 2107/A. 2086; *cf.* Election Law § 17-200 (“protections for the right to vote provided by the constitution of the state of New York . . . substantially exceed the protections for the right to vote provided by the constitution of the United States”). Thus, § 4(c)(1) may require the adoption of districts to provide racial or language minority groups greater influence over elections under certain circumstances where the federal VRA does not provide such protections.

The contrary interpretation advanced by Intervenor Respondents (*see* Mem. at 28-34) is incorrect. Among other things, it ignores textual distinctions between § 4(c)(1) and the federal VRA that point to the availability of broader relief under § 4(c)(1). *See People v. P.J. Video, Inc.*, 68 N.Y.2d 296, 302 (1986) (“If the language of the State Constitution differs from that of its Federal counterpart, then the court may conclude that there is a basis for a different interpretation of it.”). For example, § 4(c)(1)

protects “racial or minority language *groups*” from having less opportunity “to elect representatives of *their* choice,” N.Y. Const. art. III, § 4(c)(1), whereas the federal VRA refers only to the protection of “a class of citizens” and “its members,” 52 U.S.C. § 10301(b). Some federal courts have determined that the federal VRA’s reference to a single class suggests that it does not require crossover districts.<sup>8</sup> *See Nixon v. Kent County*, 76 F.3d 1381, 1386 (6th Cir. 1996) (en banc). Section 4(c)(1)’s use of plural language undermines any claim that it should be construed to precisely mirror federal standards.

Moreover, it is well established that States are free to adopt greater voting rights protections than provided by federal law. *See, e.g., Shelby County v. Holder*, 570 U.S. 529, 543 (2013) (“States have broad powers to determine the conditions under which the right of suffrage may be exercised.” (quotation marks omitted)). And though the Supreme Court made clear in *Bartlett v. Strickland* that the VRA should not be interpreted to require “crossover” or influence districts, the plurality opinion in that case

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<sup>8</sup> There is a split of authority about whether the federal VRA permits aggregation of minority groups. *See Pope v. County of Albany*, 687 F.3d 565, 572 n.5 (2d Cir. 2012) (noting split among the circuits).

explained that the Court’s ruling did not control whether States could independently decide to draw “crossover” or influence districts. *See* 556 U.S. 1, 23 (2009) (plurality opinion).

Ultimately, State Respondents take no position as to whether, under the specific circumstances here, petitioners are likely to succeed on their vote-dilution claim. But upon a sufficient record, courts may find grounds to do so under § 4(c)(1), independent of the federal VRA.

**C. The Equal Protection Clause Does Not Bar Relief Here.**

Assuming, *arguendo*, that the Court determines that Petitioners are likely to succeed on the merits of their vote dilution claim and are likely entitled to the redrawing of CD11 to address such vote dilution, such a remedy is not categorically foreclosed by the federal Equal Protection Clause. *Contra* Intervenor Resp’ts’ Mem. at 38-45; Republican SBOE Resp’ts’ Mem. at 25-27.

It is well settled that so long as election district lines are drawn in a manner where race does not *predominate* over traditional redistricting principles—such as compactness and contiguity—the lines are presumptively valid and not subject to heightened scrutiny under the Equal Protection Clause. *See Allen v. Milligan*, 599 U.S. 1, 31 (2023) (plurality op.).

When it comes to considering race in the context of districting, “there is a difference between being aware of racial considerations and being motivated by them” with the former being “permissible” and the latter not. *Id.* (quotation marks omitted). Only where a State has “subordinated race-neutral districting criteria” to racial considerations does the map become subject to strict scrutiny under the Equal Protection Clause. *See Alexander v. South Carolina State Conf. of the NAACP*, 602 U.S. 1, 7 (2024) (quotation marks omitted).

Here, the IRC has been ordered to prepare a map that remedies the constitutional violation found by Supreme Court. *See Decision & Order* at 17-18. Appellants are incorrect in arguing that any remedial map will necessarily be drawn with race as the predominating factor merely because the IRC will likely need to consider race to draw a remedial map that complies with Supreme Court’s order. *See Intervenor Resp’ts’ Mem.* at 41-42; *Republican SBOE Resp’ts’ Mem.* at 26-27. Such consideration of race, as one factor among many that must be considered in drawing a remedial map, does not, standing alone, subject a remedial map to strict scrutiny. *See Milligan*, 599 U.S. at 31-32 (plurality op.). As the plurality opinion observed in *Milligan*, the first step in the framework for

establishing a vote-dilution claim under the federal VRA requires showing that an additional majority-minority district can be drawn while adhering to traditional redistricting principles—a step that requires consideration of race, among other factors, in drawing an illustrative map. *See id.* at 33 (plurality op.). *See generally Thornburg v. Gingles*, 478 U.S. 30 (1986) (discussing analysis of vote-dilution claims). The Court in *Milligan* upheld this framework and its consideration of race against an Equal Protection Challenge. *See Milligan*, 599 U.S. at 23-30 (majority op.). Likewise, the Equal Protection Clause does not preclude any consideration of race in fashioning a remedy to a § 4(c)(1).

### **III. IT IS DOUBTFUL THAT THIS COURT HAS THE AUTHORITY TO GRANT LEAVE TO APPEAL.**

Both Intervenor Respondents and the Republican SBOE Respondents have also sought leave from this Court to appeal to the Court of Appeals. *See* Intervenor Resp'ts' Mem. at 52-53; Republican SBOE Resp'ts' Mem. at 32-34. State Respondents take no position on this request. However, State Respondents note that the circumstances in which this Court is authorized to grant such leave, *see* C.P.L.R. 5602, do not appear to encompass the circumstances presented here, and

appellants have provided no authority supporting the Court's ability to do so.

As relevant here, this Court may grant leave to appeal from an order of Supreme Court only where (a) the order is a final judgment and (b) "the appellate division has made an order on a prior appeal in the action and which necessarily affects the final judgment." C.P.L.R. 5602(a)(1)(ii). Even assuming *arguendo* the Decision and Order below constitutes a "final judgment," there is no prior appellate division order in this action that necessarily affected that final judgment. And except for C.P.L.R. 5602(a)(1)(ii), State Respondents are not aware of any other authority upon which this Court may grant leave to appeal directly from an order of the Supreme Court. *See, e.g.* C.P.L.R. 5602(a)(1)(i), (a)(2), (b)(1), (b)(2)(i), (b)(2)(iii) (authorizing leave to appeal from orders issued by appellate division in specified circumstances), 5602(b)(2)(ii) (authorizing leave to appeal from a final judgment of a court other than, among others, supreme court).


## CONCLUSION

The State Respondents take no position on the appellants' motions to stay, including on whether petitioners are likely to succeed on the merits of their claims. However, if the Court decides to issue a stay, it should be crafted to allow the IRC to engage in preparatory steps to comply with the order on appeal. In considering the motions, the Court should consider that Supreme Court correctly decided that: (i) the NYVRA is not relevant to interpreting the vote-dilution provisions of § 4(c)(1); (ii) § 4(c)(1) is not limited to providing only the same protections provided by the federal VRA; and (iii) the Equal Protection Clause does not categorically preclude the remedy ordered by the court below. Finally, State Respondents take no position on the appellants' motions for leave to appeal to the Court of Appeals, but note that it is doubtful that this Court has the authority to grant such leave in the circumstances presented.

Dated: New York, New York  
February 4, 2026

Respectfully submitted,

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