

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

NEW YORK COMMUNITIES FOR CHANGE,
MARIA JORDAN AWALOM, MONICA
DIAZ, LISA ORTIZ, AND GUILLERMO
VANETTEN,

Plaintiffs,

v.

COUNTY OF NASSAU, THE NASSAU
COUNTY LEGISLATURE, THE NASSAU
COUNTY BOARD OF ELECTIONS, BRUCE
BLAKEMAN, in his official capacity as Nassau
County Executive, MICHAEL C. PULITZER, in
his official capacity as Clerk of the Nassau
County Legislature, HOWARD J. KOPEL, in his
capacity as Presiding Officer of the Nassau
County Legislature, and JOSEPH J. KEARNY
and JAMES P. SCHEUERMAN, in their official
capacity as commissioners of the Nassau County
Board of Elections,

Defendants.

Index No. _____
(NYSCEF Filed)

COMPLAINT

PRELIMINARY STATEMENT

1. This action challenges a redistricting map adopted by the Nassau County Legislature that discriminates against the County’s Black, Latino, and Asian voters. This map unnecessarily “cracks” and “packs” Nassau County’s communities of color, suppressing their ability to exercise political power and have a representative governing body. If the Legislature had complied with applicable laws against racial vote dilution and partisan gerrymandering, the redistricting plan would have included six districts, of nineteen total, where eligible Black, Latino, and Asian voters constituted a majority of the population. The adopted map contains only four such districts. The map also gratuitously cracks a large, compact Asian community in western

Nassau County into three districts, denying those voters any opportunity to influence the outcome of elections. Because of its discriminatory effects, this map would be illegal even if the Legislature had not adopted it with discriminatory intent.

2. But the Legislature knew exactly what it was doing. The Legislature deliberately disregarded applicable legal protections for minority voters in adopting this map. It knew that, as in every prior redistricting cycle for the Nassau County Legislature, conditions required drawing districts that protected the County's communities of color from racial vote dilution. This time, however, the Legislature rejected the need to draw any such districts by willfully ignoring both the facts and well-established law.

3. The map intentionally harms communities of color and was also adopted with the impermissible purpose of favoring Republican candidates for the Legislature. Among those harms is the persistent lack of descriptive representation in the Legislature: Only one Black candidate has ever been elected outside of a majority-minority district, no Latino members are serving in the Legislature, and no Asian candidate has ever been elected.

4. The map, discriminatory in purpose and effect, is unlawful. It violates the protections against racial vote dilution enshrined in the John R. Lewis Voting Rights Act of New York. It also fails to comply with the strict, rank-ordered requirements for county legislative redistricting in Section 34 of the Municipal Home Rule Law, which prohibits partisan gerrymandering as well as racial vote dilution.

5. This Court should declare the map invalid and order the implementation of a redistricting plan that complies with the law and respects the voting rights of Nassau County's large and growing Black, Latino, and Asian communities.

PARTIES

6. Plaintiff New York Communities for Change (“NYCC”) is a non-profit community organization that pursues economic, environmental, and racial justice through direct action, legislative advocacy, and community organizing. NYCC was founded in December 2009. Ensuring that communities of color in Nassau County have voting access and are able to cast a meaningful ballot is part of NYCC’s mission and undergirds all of NYCC’s work. Among its work to ensure voting access, NYCC conducts voter registration, voter mobilization, and voter protection activities. The challenged redistricting plan for the Nassau County Legislature hinders NYCC’s mission by giving less weight to the votes of the County’s Black, Latino, and Asian voters and discouraging eligible voters in those communities from voting.

7. NYCC has a chapter in Nassau County and significant membership among the communities of color in the County. Its membership includes Black, Latino, and/or Asian voters who are registered to vote in Nassau County and enrolled in the Democratic Party and, at minimum, in current Legislative Districts 1, 2, 3, 5, 6, and 9 and who would reside in properly drawn remedial districts under a legally compliant map.

8. NYCC’s members include at least one Black voter registered in Nassau County who is a resident of Legislative District 1 in the Village of Hempstead and is enrolled in the Democratic Party. This member would reside in a properly constructed remedial district that does not gratuitously divide the Village of Hempstead, that provides voters of color an opportunity to elect their candidate of choice, and otherwise complies with applicable redistricting principles.

9. NYCC’s members include at least one Black voter registered in Nassau County who is a resident of Legislative District 3 in the community of Elmont and is enrolled in the Democratic Party. This member would reside in a properly constructed remedial district into which

voters of color are not gratuitously packed, where voters of color have an opportunity to elect their candidate of choice, and which otherwise complies with applicable redistricting principles.

10. NYCC's members include at least one Latino voter registered in Nassau County who is a resident of Legislative District 5 in the Village of Freeport and is enrolled in the Democratic Party. This member would reside in a properly constructed remedial district that keeps the Village of Freeport whole as part of a legislative district in which voters of color have an opportunity to elect their candidate of choice and otherwise complies with applicable redistricting principles.

11. NYCC's members include at least one Asian voter registered in Nassau County who is a resident of Legislative District 9 in the community of New Hyde Park who is enrolled in the Democratic Party. This member would reside in a properly drawn remedial district that does not gratuitously divide the large, compact Asian community in western Nassau County; would provide Asian voters an opportunity to elect their candidates of choice or influence the outcome of elections; and otherwise complies with applicable districting principles.

12. Plaintiff Maria Jordan-Awalom is a Latina resident of the Village of Freeport in Legislative District 6. She is registered to vote in Nassau County and enrolled in the Democratic Party. She would reside in a properly constructed remedial district that keeps the Village of Freeport whole as part of a legislative district in which she and other voters of color have an opportunity to elect their candidate of choice and otherwise complies with applicable redistricting principles.

13. Plaintiff Monica Diaz is a Latina resident of the community of Uniondale in Legislative District 2. She is registered to vote in Nassau County and enrolled in the Democratic Party. She would reside in a properly constructed remedial district into which she and other voters

of color are not gratuitously packed and have an opportunity to elect their candidate of choice and otherwise complies with applicable redistricting principles.

14. Plaintiff Lisa Ortiz is an Afro-Latina resident of the community of Lakeview in Legislative District 14. She is registered to vote in Nassau County and enrolled in the Democratic Party. She would reside in a properly constructed remedial district in which she and other voters of color have an opportunity to elect their candidate of choice and otherwise complies with applicable redistricting principles.

15. Plaintiff Guillermo VanEtten is a Latino resident of the community of Mill Brook in South Valley Stream in Legislative District 7. He is registered to vote in Nassau County and enrolled in the Independence Party. He would reside in a properly constructed remedial district in which the community of Mill Brook is not gratuitously divided; he and other voters of color would have an opportunity to elect their candidate of choice or influence the outcome of elections; and otherwise complies with applicable redistricting principles.

16. Defendant the County of Nassau is a county in the State of New York.

17. Defendant the Nassau County Legislature is the legislative branch of the government of Nassau County. It comprises nineteen representatives—one from each of Nassau County's nineteen legislative districts. The Legislature is charged with reapportioning the County legislative districts following each federal decennial census. On February 27, 2023, the Legislature adopted the discriminatory Map that is challenged in this action.

18. Defendant the Nassau County Board of Elections is an agency charged with administering elections in Nassau County.

19. Defendant Bruce Blakeman is the County Executive of Nassau County. He is sued in his official capacity.

20. Defendant Michael C. Pulitzer is the Clerk of the Nassau County Legislature. He is sued in his official capacity.

21. Defendant Howard J. Kopel is the Presiding Officer of the Nassau County Legislature. He is sued in his official capacity.

22. Defendant Joseph J. Kearney is the Republican Commissioner for the Nassau County Board of Elections. He is sued in his official capacity.

23. Defendant James P. Scheuerman is the Democratic Commissioner for the Nassau County Board of Elections. He is sued in his official capacity.

I. The 2023 Redistricting Plan for the Nassau County Legislature Dilutes the Votes of Black, Latino, and Asian Voters.

24. On February 27, 2023, the Nassau County Legislature passed Local Law 1 (the “Map”)—a redistricting plan that impermissibly dilutes the voting strength of Black, Latino, and Asian voters. On February 28, 2023, County Executive Bruce Blakeman signed the Map into law, after the petitioning period for candidates for the Nassau County Legislature began.

25. Nassau County has rapidly become a racially diverse county. As its communities of color have grown steadily, its non-Hispanic white population has decreased. In 1990, the County’s population was nearly 83% non-Hispanic white. By 2020, the County’s population had grown to over 1.39 million people, of which only 55% of residents were non-Hispanic white and 44% were Black, Latino, and/or Asian.

26. Between the 2010 census underlying the previous legislative redistricting cycle and the 2020 census underlying this cycle, the population of Nassau County grew by 56,242 people. During that period, the County’s non-Hispanic white population declined by 97,855, or 11.2%, while the population of all other communities increased by 154,097—with a 59.0% growth rate in

the Asian population, a 31.3% growth rate in the Latino population, and a 10.3% growth rate in the Black population.

27. Although Black, Latino, and Asian residents constitute nearly one-half of Nassau County's total population and over one-third of its eligible voters, the Map provides only four districts out of nineteen where voters of color constitute a majority of eligible voters.

28. To adopt this Map, the Legislature disregarded its legal obligation to draw districts that protect the County's Black, Latino, and Asian voters from racial vote dilution.

29. The Map unnecessarily splits—or “cracks”—several geographically compact communities of color. For example, it places large, compact Black, Latino, and/or Asian communities in Lakeview, South Valley Stream, Inwood, Freeport, and New Hyde Park into predominantly white districts. The Map also unjustifiably packs communities of color into Legislative Districts 2 and 3.

30. A fair and lawful redistricting plan that complies with protections against vote dilution and other traditional districting principles would have provided six districts in which Black, Latino, and Asian voters constituted a majority of the eligible voters. It would also have kept whole a large, compact Asian community in western Nassau County, instead of cracking that community across three separate districts and denying it any opportunity to influence the outcome of elections.

31. The John R. Lewis Voting Rights Act of New York (“NYVRA”) prohibits redistricting plans that dilute the voting strength of race, color, or language-minority groups.

32. A violation of the NYVRA's prohibition on racial vote dilution can be established in two ways: where the preferred candidates of a protected class in a political subdivision such as a county would usually be defeated and either: (a) voting is racially polarized in the political

subdivision, or (b) under the totality of the circumstances, the ability of each of these protected groups, individually and collectively, to elect candidates of their choice or influence the outcome of elections is impaired. The Map enacted by the defendants violates the NYVRA's prohibition of vote dilution under either standard.

A. Voting In Nassau County Is Racially Polarized and the Map Impairs the Ability of Black, Latino, and Asian Voters to Elect Candidates of Their Choice and Influence the Outcome of Elections.

33. Racially polarized voting occurs when there is a divergence in the electoral choices of members of a politically cohesive racial or language-minority group from the rest of the electorate.

34. Under the NYVRA, where multiple racial or language-minority groups are both internally politically cohesive and politically cohesive with each other, those groups may be combined for purposes of analyzing whether voting is racially polarized and for determining appropriate remedies. The NYVRA expressly protects "coalition districts," that is, districts where multiple protected groups that are politically cohesive can be combined to protect their members against racial vote dilution and to provide them with an opportunity to elect their candidates of choice or influence the outcome of elections in jurisdictions where voting is racially polarized.

35. Voting is consistently racially polarized in Nassau County.

36. Black voters in Nassau County consistently vote cohesively for the same candidates.

37. Latino voters in Nassau County consistently vote cohesively for the same candidates.

38. Asian voters in Nassau County consistently vote cohesively for the same candidates.

39. Black, Latino, and Asian voters in Nassau County are also politically cohesive with each other.

40. White voters in Nassau County consistently vote cohesively for the same candidates, who are not the candidates preferred by Black, Latino, and Asian voters.

41. Absent special circumstances, the preferred candidates of Black, Latino, and/or Asian voters in Nassau County are usually defeated by the preferred candidates of a cohesive bloc of white voters.

42. Evidence of racial voting patterns in the legislative record from this redistricting cycle shows that the Nassau County Legislature knew that voting was racially polarized in the County at the time the Legislature adopted the Map.

43. The Map was drawn by the law firm of Troutman Pepper Hamilton Sanders LLP (“Troutman”), including Troutman attorney Misha Tseytlin, in consultation with the Presiding Officer of the Legislature, Republican Richard Nicoletto.

44. The Presiding Officer invited Mr. Tseytlin to testify in support of the Map at a hearing of the full Legislature on February 16, 2023. At that hearing, Mr. Tseytlin testified that there is racially polarized voting in Nassau County.

45. Because Nassau County’s Black, Latino, and Asian communities are politically cohesive and sufficiently numerous and compact to form a majority in six single-member districts and because voting is racially polarized, the Legislature’s decision to draw only four majority-minority districts violates the NYVRA’s protections against racial vote dilution.

46. Similarly, the Legislature’s gratuitous cracking of a large, compact, politically cohesive, and predominantly Asian community of color in western Nassau County denies those voters any opportunity to influence the outcome of elections in violation of the NYVRA.

B. Under the Totality of Circumstances, Black, Latino, and Asian Voters Lack an Equal Opportunity to Elect Their Candidates of Choice and/or to Influence the Outcome of Elections for Nassau County Legislature.

47. Unlawful vote dilution under the NYVRA can also be established where, “under the totality of the circumstances, the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections is impaired.” The NYVRA provides a non-exhaustive list of factors which a court may consider. Election Law § 17-206 [3]. As discussed below, these factors show that the Map impairs Black, Latino, and Asian voters’ ability to elect their candidates of choice and/or influence the outcome of elections for the Nassau County Legislature.

1. History of Discrimination in Nassau County

48. One factor the NYVRA considers in the totality-of-circumstances analysis is “the history of discrimination in or affecting the political subdivision.” Election Law § 17-206 [3] [a].

49. There is a significant history of discrimination against communities of color in Nassau County.

50. In the 1920s, the Ku Klux Klan maintained a notable presence in Nassau County. Klan members on Long Island held anti-Black and anti-immigrant rallies and conducted cross-burnings, including one event that drew more than 10,000 attendees.

51. As suburban Long Island took shape in the 1940s and 1950s, communities like Levittown used racially restrictive covenants to prevent homeowners from permitting their homes to be occupied by non-whites.

52. Even after the U.S. Supreme Court struck down such covenants, real estate agents and community members continued to engage in racist practices and scare tactics in an effort to keep diversifying communities white. For example, in the 1950s, real estate agents engaged in a practice called “blockbusting,” which warned white homeowners that Black homebuyers were

coming to the neighborhood and property values would plummet. The practice—commonplace in communities like Freeport, Hempstead, Lakeview, Roosevelt, and Uniondale—allowed these agents to buy houses at low prices from panicked white homeowners and sell them at a premium to minority buyers, pocketing the difference.

53. Moreover, until 1974, the Federal Housing Administration, through a practice that became known as “redlining,” effectively refused to lend to Black borrowers seeking to buy homes in the suburbs, including in Nassau County.

54. Past discrimination has accumulated over time to make Nassau County the most segregated county in its population class in the United States today. In fact, Nassau County school districts are now even more segregated than they were 40 years ago. One professor referred to the County’s demographic data as a “hyper-segregated pattern[.]” Nassau County’s Black, Latino, and Asian residents continue to experience significant degrees of residential segregation. For example, a federal court determined that certain zoning determinations made by the Village of Garden City were the result of intentional racial discrimination in violation of the Fair Housing Act.

55. Reflecting this long history of discrimination and disenfranchisement, communities of color in Nassau County experience the lingering effects of discrimination in a variety of socioeconomic areas.

56. For example, Nassau County’s tax assessment system historically disfavored communities of color, leading to civil rights litigation and a consent decree in 2000 requiring the adoption of “a revaluation system and tax assessment role that is nondiscriminatory, scientific, equitable and based on fair market value.”

57. Discriminatory tax assessments are a continuing problem in Nassau County and the subject of a new lawsuit attempting to reinvigorate the 2000 consent decree that had been ordered

years ago to solve this disparity. A 2017 *Newsday* investigation found that Nassau County had created two different property assessment systems that were separate and unequal.

2. *The Extent to Which Members of the Protected Class have Been Elected to Office in the Political Subdivision*

58. Another factor the NYVRA considers is “the extent to which members of the protected class have been elected to office in the political subdivision.” Election Law § 17-206 [3] [b].

59. Black, Latino, and Asian candidates have achieved little success in elections for the Nassau County Legislature.

60. There are no Latino representatives in the Legislature, even though the Latino population grew by over 60,000 residents between 2010 and 2020. The lack of Latino legislators was repeatedly noted by the public in hearings during the redistricting process. For example, Veronica Renta-Irwin, then-President of the Long Island Hispanic Bar Association, pointed out the lack of Latino representation at the state and county level and noted that there are no Latinos in the county legislature even though the Latino population represents nearly one in five residents. Milagros Vicente, President of the Nassau County Hispanic Advisory Board, noted similar concerns.

61. Despite the nearly 60% growth in Nassau County’s Asian community in the past decade, there has never been an Asian person elected to the Legislature. The lack of Asian legislators was repeatedly noted during the redistricting process. As Carmen Pineyro, the former deputy mayor of Freeport, testified: “Nassau County demographics, particularly the fast-growing Latino population, as well as the Asian population, have changed drastically in the last ten years. And yet Nassau County has zero representation of Latinos and Asian-Americans. Either in elected

office or even in government leadership. . . . This is not only disappointing but it's also a sign of how our communities have been ignored and dismissed.”

62. Only one Black person has ever been elected to the Legislature from a seat outside of a majority-minority district.

63. No Black, Latino, or Asian candidate has ever been elected to the office of County Executive, County Comptroller, County Clerk, or District Attorney in Nassau County.

3. Policies and Practices that Have Suppressed Minority Voting

64. The next factor is whether there are any voting qualifications, laws, policies, and/or practices “that may enhance the dilutive effects of the election scheme” at issue. Election Law § 17-206(3)(c).

65. There has been a significant history of discrimination against minority communities in Nassau County in the context of voting. For example, in the late 1990s, the United States District Court for the Eastern District of New York found that the method of election for the Town of Hempstead, which makes up over one-half of the County's population, violated Section 2 of the federal Voting Rights Act of 1965 (“VRA”). The ruling was affirmed by the United States Court of Appeals for the Second Circuit

66. Furthermore, from 1922 through 1969, Nassau County required each citizen to present a certificate of literacy in order to vote. This practice had a disproportionate impact on the minority population's ability to vote.

67. Further still, until 1995, a state election law purged voters from the election rolls if they failed to vote for four successive years. That law purged 56% more voters in predominantly minority election districts than in predominantly white districts. For example, a registered Black voter in the majority-minority 18th Assembly District was 70% more likely to be purged from the voting rolls than a registrant from any other assembly district in the Town of Hempstead.

68. In 2005, Nassau County was found to be out of compliance with federal law requiring Spanish-language access to its voters.

69. Conducting elections in odd-numbered years, on a schedule different from federal and state-wide elections, depresses minority turnout and exacerbates racial disparities in turnout. The use of odd-year elections for the Legislature diminishes the ability of Black, Latino, and Asian voters to elect candidates of their choice and to influence the outcome of elections. The next regular elections for the Nassau County Legislature will be held in 2025, not concurrent with any regular state or federal elections.

4. *Black, Latino, and Asian Residents of Nassau County Vote and Contribute Financially to Candidates for Office at Lower Rates Than White Residents.*

70. The NYVRA considers the extent to which members of a protected class in the political subdivision “vote” and “contribute to political campaigns” “at lower rates than other members of the electorate.” Election Law § 17-206 [3] [e]; [f].

71. Black, Latino, and Asian voters in Nassau County consistently vote at lower rates than white voters.

72. Black, Latino, and Asian residents in Nassau County make financial contributions to campaigns for office at a lower rate compared to white voters.

5. *Both Subtle and Overt Racial Appeals Are Common in Nassau County Political Campaigns.*

73. The NYVRA considers “the use of overt or subtle racial appeals in political campaigns” as a factor in the totality of circumstances. Election Law § 17-206(3)(i).

74. Political campaigns in Nassau County have featured overt and subtle racial appeals.

75. For example, in the 2017 County Executive election, the Republican candidate distributed a flyer featuring “a photo of three bare-chested Latino men covered with tattoos, and

proclaims, ‘Meet Your New Neighbors!’ It says that Ms. Curran, a county legislator, is ‘MS-13’s choice for county executive.’” Among many other denunciations of the flyer, the New York Times Editorial Board called it: “Willie Horton, Updated for the Trump Era.”



76. A year later, then-President Trump held an “immigration forum” in Bethpage in which he made derogatory remarks about the demographic changes in Nassau County. At the forum, then-President Trump, who grew up only a few miles away in Queens, said “And for me to go through and be in this position, and see towns that I’ve known all my life — I grew up here; I know every one of the towns — and it’s unthinkable that it’s almost like an occupied territory.”

77. From 2020 to 2022, following the murder of George Floyd, the civil rights demonstrations that followed, and proposed changes to New York’s bail laws, politicians in Nassau County doubled down on their racial appeals.

78. On November 1, 2020, Nassau First, a Facebook account that, on information and belief, posts social media ads paid for by the Nassau County Republican Committee, posted an

image of a Black Lives Matter protest in Levittown—which was by all accounts peaceful—and captioned it: “Mobs Riot in Levittown...Thank You Kevin Thomas.” Senator Thomas is Asian-American.

79. On December 10, 2020, Nassau First posted the mugshot of a Black man arrested in West Seneca, New York—a community 400 miles from Nassau County—to criticize bail reform laws.

80. On August 20, 2022, the “Nassau County GOP” Facebook account—an official account for the Nassau County Republican Party—shared a post from Congressional Candidate Anthony D’Esposito noting that he would “stand up for Nassau County” and displayed the mugshot of a Vietnamese man accused of committing crimes in the Bronx. In sharing the post, the Nassau County GOP account posted: “Our future is at stake.”

81. During the 2023 election cycle, the Nassau County Republican Committee sponsored ads, including mailers, attacking Democratic Legislator Joshua Lafazan for supposedly speaking about “white privilege.”



6. *The Nassau County Government Disproportionally Fails to Respond to the Needs of Communities of Color*

82. The NYVRA totality-of-circumstances inquiry examines whether there is “a significant lack of responsiveness on the part of elected officials to the particularized needs of members of the protected class.” Election Law § 17-206 [3] [j].

83. The legislative record is replete with examples of concerned citizens from protected classes citing the Legislature’s lack of responsiveness to their needs.

84. On information and belief, among other areas, communities of color bear a disproportionate county tax burden compared to white communities but receive less county support for infrastructure, public safety, social services, and environmental services than predominantly white areas.

7. *The Legislature’s Justification for Adopting the Map Is Pretextual and Not Supported by Substantial Evidence.*

85. The NYVRA totality-of-circumstances considers “whether the political subdivision has a compelling policy justification that is substantiated and supported by evidence for adopting” the redistricting plan at issue. Election Law § 17-206 [3] [k].

86. The Legislature lacks a compelling policy justification for the Map’s dilution of Black, Latino, and Asian voting strength. To the contrary, its purportedly “race blind” Map is at odds with substantial evidence of historical and ongoing racially polarized voting and other evidence that Black, Latino, and Asian voters have less ability than white voters to elect candidates of their choice or influence Nassau County elections.

87. The Legislature deliberately ignored express protections in the NYVRA for coalition districts. Coalition districts are a familiar concept to the Nassau County Legislature. During the 2013 redistricting cycle, the Legislature created a Black-Latino coalition district for the purpose of protecting those groups against racial vote dilution. But, in adopting this Map, the

Legislature took the position that drawing districts to protect against racial vote dilution were required only if a “single minority group” was sufficiently numerous and compact to form a majority in a single-member district.

88. The Legislature took extensive measures to deny transparency into the process of adopting the Map. As discussed in greater detail below, the Presiding Officer and the Legislature refused repeated requests to disclose facts, data, and analyses relied upon by the Legislature in adopting the Map. When the Legislature ultimately produced those analyses after the November 2023 elections in response to a lawsuit, the documents contradicted the mapmakers’ claims that they had engaged in race-blind redistricting.

II. The Map Violates Section 34 of the Municipal Home Rule Law.

89. Section 34 of the Municipal Home Rule Law (“Section 34”) was enacted to prevent anti-voter manipulation in county-level redistricting. It sets forth strict, rank-ordered criteria for use in drawing election maps to ensure fair, consistent elections throughout the state. In order of priority, those criteria are: (1) compliance with “one person, one vote”; (2) protecting against racial discrimination; (3) contiguity; (4) compactness; (5) protecting against the discouragement of competition, and the favoring or disfavoring of political parties, candidates, or incumbents, as well as consideration of the cores of existing districts and of pre-existing political subdivisions, including communities of interest; and (6) promoting orderly and efficient election administration.

90. The Map fails to comply with several of these requirements and/or their order of priority within the law.

A. The Map Was Drawn with the Intent to Dilute the Votes of Black, Latino, and/or Asian Voters and Achieves That Result.

91. Section 34 prohibits county legislatures from drawing redistricting plans with the “intent or result of denying or abridging the equal opportunity of racial or language minority

groups to participate in the political process or to diminish their ability to elect representatives of their choice.” Municipal Home Rule § 34 [4] [b].

92. As described in more detail below, the conduct of the Legislature in adopting the Map shows its intentional disregard of the protections against racial vote dilution incorporated into Section 34, which include the NYVRA’s express protections for multi-racial coalition districts.

93. As described above, the Map has the result of impairing the ability of Black, Latino, and Asian voters to elect their candidates of choice and/or influence the outcome of elections for the Nassau County Legislature.

B. The Map Was Drawn with the Intent to Favor Republicans.

94. Section 34 also prohibits county legislatures from drawing redistricting plans “for the purpose of favoring or disfavoring . . . particular candidates or political parties.” Municipal Home Rule § 34 [4] [e].

95. The Map is an extreme partisan gerrymander. Statistical evidence in the legislative record on redistricting shows that the Map was drawn with the intent to favor Republicans.

96. Throughout the redistricting process, Dr. Daniel Magleby, a professor of political science at Binghamton University, provided the Legislature with a series of memoranda evaluating the various proposed maps using an “ensemble analysis,” which compared each proposed map to a set of 10,000 neutrally drawn, computer-generated maps. In a February 24, 2023 memorandum, Dr. Magleby provided the Legislature with an analysis concluding that the adopted Map is an extreme partisan gerrymander in favor of Republicans compared to the set of neutral maps. Dr. Magleby’s series of memoranda show a pattern of efforts by Republicans during the redistricting process to draw a map with the intent and effect of favoring Republicans.

97. In the recent November 2023 election, the Map performed according to its impermissible partisan intent, yielding a 12-7 Republican majority in the Legislature.

98. Further, as described in more detail below, the Map was created and enacted in a nontransparent manner controlled exclusively by legislators of the dominant political party in the Nassau County Legislature.

99. The Legislature’s bipartisan Temporary Districting Advisory Commission (the “Commission”) submitted two sets of maps to the Legislature for its consideration. Both maps were voted out of the Legislature’s Rules Committee. However, without any notice to the public or Democratic legislators, the Presiding Officer discarded both of those maps and introduced a new map for the first time less than three weeks before the start of the petitioning period for candidates for the Legislature.

100. The Presiding Officer provided no justification for the decision to disregard the two Commission maps until a memorandum dated February 16, 2023 (the “February 16 Memo”)—less than two weeks before the start of the petitioning period. The February 16 Memo, which was authored by the Legislature’s mapmaker, Troutman, was not published widely. Instead, the February 16 Memo was only made available in hard copy to those who were able to attend the Legislature’s February 16 hearing in-person. Moreover, the February 16 Memo was only made available to Democratic legislators a few minutes before the start of the February 16 hearing.

101. The Presiding Officer and his mapmakers at Troutman justified their support for the Map by citing factual and statistical analyses conducted by an elections analyst, Sean Trende. In public testimony and two memoranda—the February 16 Memo and a slightly revised version of that memo published on February 27 (the “February 27 Memo”), the Legislature and its mapmakers asserted that Mr. Trende’s analyses showed the redistricting plan did not need to include any districts to protect against racial vote dilution and was not biased on partisan grounds. Despite numerous requests by Democratic legislators and the public to review Mr. Trende’s

analyses, the Legislature refused to disclose any details of the analyses beyond cherry-picked excerpts favoring the redistricting plan the Legislature sought to adopt. Given the partisanship of the process and the Presiding Officer's control over it, it is telling that no Republican legislators ever asked to see Mr. Trende's analysis.

102. One exchange between Democratic Legislator Carrié Solages, Presiding Officer Nicollelo, and Mr. Tseytlin during the February 16 hearing exemplifies the extent of the Republicans' blockade of information concerning the analysis that purportedly justified the Map:

LEGISLATOR SOLAGES: So you're not providing the analysis from Mr. Trende?

MR. TSEYTLIN: I am providing his bottom-line conclusion. That is what I'm providing.

LEGISLATOR SOLAGES: Can you please provide his analysis?

PRESIDING OFFICER NICOLELLO: I think he's answered the question. He's providing the bottom line analysis, and that's --

LEGISLATOR SOLAGES: He's relying upon the conclusion, but not upon the analysis. But the analysis determines the conclusion; therefore, we are entitled to the analysis.

PRESIDING OFFICER NICOLELLO: Therefore, no, you're not. He's given you an answer, and that's the answer that you have.

LEGISLATOR SOLAGES: There was no answer, just to be clear.

PRESIDING OFFICER NICOLELLO: He was. He basically said that he's providing a bottom line analysis and that's all that he is providing.

LEGISLATOR SOLAGES: He's refusing to provide an analysis that he [is] relying on the conclusion that came from that analysis.

PRESIDING OFFICER NICOLELLO: It is what it is.

103. At a February 27, 2023 legislative hearing, the Presiding Officer continued to deny the public and the Democratic legislators access to the records that would allow them to evaluate the accuracy of the representations concerning Mr. Trende's analysis as well as the soundness of that analysis. Kevan Abrahams, Minority Leader of the Legislature, again asked for more

information about Mr. Trende’s analysis. The Presiding Officer refused and closed the debate by saying, “We’re not going to go into any further detail with respect to that.”

104. The Map was drawn without any consultation or participation by the minority Democratic Party.

105. The Map passed on a strict party-line vote at 9:30pm on February 27, 2023—only hours before the candidate petitioning period began.

106. The Legislature did not produce any facts, data, or other records of Mr. Trende in response to a March 27, 2023 Freedom of Information Law (FOIL) request from the League of Women Voters of Port Washington-Manhasset. Instead, the Legislature invoked blanket FOIL exemptions to refuse to disclose any records at all, other than the two Troutman memos. It was not until the League of Women Voters of Port Washington-Manhasset brought an Article 78 proceeding to vindicate their rights under FOIL that the Legislature ultimately agreed to produce documents. The Legislature did not complete its production of records of Mr. Trende’s analyses until after the November 2023 election.

C. The Map Gratuitously Divides Villages and Prioritizes Certain Communities of Interest for Pretextual Reasons.

107. Lower in priority on Section 34’s rank-ordered criteria is preserving “pre-existing political subdivisions” and “communities of interest.” According to the February 16 and 27 Memos, the Map puts great weight on this consideration.

108. Yet the Map unnecessarily splits multiple communities of interest that are predominantly people of color. These include three incorporated villages—Valley Stream, Hempstead, and Freeport—where communities of color constitute a large majority. No village in Nassau County, including each of those three villages, is so large that it must be split in a redistricting plan.

109. The Legislature's mapmakers provided flimsy and pretextual reasons for its impermissible motives. The two Troutman memos relied on constantly shifting, sometimes contradictory criteria for maintaining certain communities and separating others. The memos' basis for keeping particular communities together was tortured, unresponsive to the concerns voiced by community members throughout the redistricting process, and, at times, flatly contradicted by the legislative record and other documentary evidence.

110. During the February 16 Hearing, when pressed by legislators to explain some of the vague and curious choices to maintain certain communities of interest together in the Map and to split obvious communities of interest elsewhere, Mr. Tseytlin refused to elaborate on the memo.

III. The Legislature Adopted the Map in a Rushed, Opaque, and Partisan Process That Revealed Willful Disregard for the Law.

111. No proof of impermissible motive is required to prevail on a racial vote dilution claim under the NYVRA or Section 34. However, Section 34 independently proscribes redistricting plans drawn with the intent to dilute the voting power of racial minorities. And here, the process by which the Map was drawn and passed reveal the Legislature's intent to discriminate against voters of color and to adopt a map that favors Republicans.

A. Before this Redistricting Cycle, the Nassau County Legislature Had Drawn Maps that Included Protections Against Racial Vote Dilution.

112. That the Nassau County Legislature's redistricting plan must include at least some districts designed to protect voters of color against racial vote dilution was accepted by both Republicans and Democrats from the Legislature's founding until at least January 17, 2023.

113. The Nassau County Legislature was formed in 1994 pursuant to a federal court's ruling that the structure of the County's prior form of local government, the Nassau County Board of Supervisors, was unconstitutional because it violated the principle of one person, one vote. The

court ordered the creation of a legislature that would comply with the federal VRA by providing representation for minority groups.

114. The first legislative map was adopted on May 24, 1994 and included two majority-minority districts among the nineteen total districts—a measure that met with agreement from Republicans and Democrats. Even today, the Nassau County website states that “[t]he formation of the legislature . . . increas[ed] representation and mandat[ed] two minority districts.”

115. The bipartisan consensus that legislative districts must be drawn to protect against racial vote dilution continued through the 2002-03 and 2012-13 redistricting cycles. In the 2012-13 cycle, the Republican-controlled Legislature drew three majority-minority districts. One of them was drawn as a Black-Latino coalition district in which non-Hispanic Black and Hispanic populations combined to constitute a majority of the eligible voter population.

116. The Legislature had good reason to draw these districts: Black and Latino voters were politically cohesive and a majority of white voters consistently voted as a bloc against the Black and Latino-preferred candidates. And the 2013 Legislature’s decision to draw a coalition district did not make it a legal pioneer in the voting rights world. By that time, the United States Court of Appeals for the Second Circuit, among other federal courts, had already long held that Section 2 of the federal VRA protected coalition districts.

B. During the 2022-23 Redistricting Cycle, the Commission Received Evidence of the Continued Need for the Map to Comply with Protections Against Racial Vote Dilution.

117. The consensus that Nassau County’s redistricting plan must be drawn to comply with protections against racial vote dilution continued into the first stage of the 2022-23 redistricting cycle, which began with the work of the redistricting advisory Commission.

118. During this redistricting cycle, the Commission received evidence that conditions in the County—consistent with the three prior redistricting cycles—continued to mandate that districts be drawn to protect voters of color against racial vote dilution.

119. In addition to the federal VRA, in this redistricting cycle the Legislature was required to comply with the NYVRA and Section 34.

120. Between August and November of 2022, the Commission held at least nine hearings where the public had an opportunity to comment on the redistricting process. This process elicited both statistical and testimonial evidence regarding the need for the redistricting plan to protect against racial vote dilution and partisan gerrymandering.

121. Many members of the public testified to the Commission about the need for the new map to properly reflect the changing demographics of Nassau County and ensure that the needs of minority communities are served. Public comments reinforced that segregation, discrimination, unresponsiveness to minority communities, and inadequate representation persist throughout the County.

C. The Commission Submits Two Proposed Redistricting Plans to the Legislature, Both Acknowledging the Need to Protect Against Racial Vote Dilution.

122. On November 10, 2022, the Commission released three proposed redistricting plans: one drawn by its Republican members and two drawn by its Democratic members.

123. Both Democratic Commissioners' maps included districts to protect Black, Latino, and Asian voters against racial vote dilution. The Democratic Commissioners grounded their decision to draw those districts in an expert analysis of racial voting patterns in Nassau County that showed racially polarized voting.

124. The Republican Commissioners map also acknowledged the need for Nassau County to draw legislative district to protect voters of color against racial vote dilution.

125. On November 21, 2022, the Commission voted on the Republican and Democratic Commissioners' maps. The vote deadlocked along party lines. As a result, the Commission submitted one Republican map and one Democratic map for the Legislature's consideration.

126. On January 17, 2023, the Legislature's Rules Committee voted to advance both maps out of committee for a vote by the full Legislature.

D. At the Eleventh Hour, the Legislature Abruptly Introduced a New Map and Abandoned Any Pretense of Compliance with the NYVRA.

127. Neither map voted on by the Rules Committee advanced to the floor of the Legislature. Instead, the Legislature published a new proposed map unexpectedly and without explanation to the public on February 9, 2023 (the "February 9 Map"). This map included only four districts in which voters of color constituted a majority of eligible voters and split the large Asian community in the western part of the County across three legislative districts.

128. The Presiding Officer did not provide any justification for the new redistricting plan until just minutes before a February 16, 2023 hearing on that map. Those justifications were asserted in the February 16 Memo.

129. The February 16 Memo claimed the new map complied with all legal requirements.

130. The February 16 Memo explained that the new map was drawn without any consideration of race. Troutman dispensed with the decades-long bipartisan consensus that the County must draw its redistricting plan in a manner that protects against racial vote dilution with a single sentence: "Sean Trende, a noted redistricting expert, conducted a *Gingles* precondition analysis of the County and the proposed map, and concluded that Nassau County contains no districts meeting the *Gingles* preconditions that would require or permit the creation of any race-focused districts, for purposes of compliance with Section 2 of the VRA."

131. The “*Gingles* preconditions” at issue derive from *Thornburg v Gingles*, 478 US 30 [1986], the seminal United States Supreme Court decision providing the framework for a racial vote dilution claim under Section 2 of the federal VRA. The *Gingles* court held that there are three preconditions for requiring a jurisdiction to draw districts to protect against racial vote dilution: (1) the minority group must be sufficiently numerous and compact to constitute a majority in a single-member district; (2) the minority group must be politically cohesive such that they typically vote together for the same candidates; and (3) racial majority voters must vote cohesively in a way that usually defeats minority voters’ candidate of choice. As noted above, federal courts including the Second Circuit, have since held that multiple, politically cohesive minority groups can be combined for the purpose of satisfying the *Gingles* preconditions. More importantly, the NYVRA codifies protections for coalition districts into New York State law.

132. The February 16 Memo contained no additional information concerning Mr. Trende’s “*Gingles* precondition analysis.” Neither the Presiding Officer nor Troutman made Mr. Trende available to testify at any point during the redistricting process to explain his methods or conclusions.

133. During the February 16 hearing, Democratic legislators made repeated requests for Mr. Trende’s analysis to be provided to the Legislature. Presiding Officer Nicoletto and Mr. Tseytlin refused. Majority counsel for the Legislature later confirmed that no legislator received any of Mr. Trende’s analyses prior to voting on the map, notwithstanding the Legislature’s reliance on Troutman’s characterization of his conclusions in justifying passage of the Map.

134. The legislative record contradicted Troutman’s description of Mr. Trende’s purported conclusion that the three *Gingles* preconditions were not satisfied.

135. Through the Commission process, the Legislature received detailed reports of analyses that confirmed the *Gingles* preconditions were satisfied. The Commission received no evidence to the contrary.

136. Moreover, Troutman’s own map made clear that eligible Black and Latino voters were sufficiently numerous and compact to form a majority in *at least* four districts.

137. Mr. Tseytlin himself testified to the Legislature that Mr. Trende had found that “there is some racially polarized voting in some parts of Nassau.”

138. During his testimony, Mr. Tseytlin also remarked that the February 16 Memo’s conclusion that the *Gingles* preconditions were not satisfied was based upon the Legislature’s position that the federal VRA only protects “a single minority” group from racial vote dilution.

139. That is, it is the position of the Legislature that, even where two racial minority groups live side-by-side in dense neighborhoods—segregated from white neighborhoods—and those two groups vote cohesively for the same candidates and their preferred candidates are usually defeated by a cohesive white voting bloc, neither group is protected against racial vote dilution unless at least one group is sufficiently numerous and compact to form a single-race-majority district.

140. This statement misrepresents the law and disregards the plain terms of the NYVRA, which expressly protects coalition districts and authorizes coalition claims.

141. The February 16 Memo further misrepresented the law in stating that there were no differences between the NYVRA’s and the federal VRA’s protections against racial vote dilution.

E. The Republican Legislators Passed an Unlawful Map on the Day Before Candidate Petitioning Began.

142. On February 21, 2023, Republican legislators released a final version of the redistricting plan that was ultimately adopted as the Map. The Map made a handful of minor

changes from the February 9 Map but left its fatal defects unaddressed, impermissibly diluting the voting strength of Nassau County's Black, Latino, and Asian communities.

143. The Map was accompanied by the February 27 Memo, a slightly revised version of the February 16 Memo, which again was provided only in hard copy at a February 27, 2023 legislative hearing. The February 27 Memo repeated verbatim the decision by the mapmakers not to consider race in any way based on Mr. Trende's purported finding that the *Gingles* preconditions had not been satisfied.

144. The Map contained only four districts in which eligible voters of color constituted a majority of the district's population of eligible voters.

145. The February 27 Memo asserted, however, that the Map contained five majority-minority districts. This assertion relied on the use of Voting Age Population, which includes all people over age 18, regardless of their eligibility to vote, instead of Citizen Voting Age Population ("CVAP"), which is the population of eligible voters. In one of the five districts that the memo claimed was a majority-minority district, Black, Latino, and Asian residents made up 60 percent of the adult population but less than 40 percent of eligible voters.

146. This district, Legislative District 5, included most of the majority-Black and Latino village of Freeport. Legislative District 5 submerges the Village of Freeport in a majority-white district by straddling the Meadowbrook Parkway, an icon of residential racial segregation in Nassau County. This newly drawn district included the residence of Minority Leader Abrahams, one of the longest-serving Black elected officials in the history of Long Island. The demographics of Mr. Abrahams' district changed from a CVAP that was over 80% Black and Latino to over 60% white. Mr. Abrahams declined to run for re-election after the new map was adopted.

147. The Map severed South Valley Stream and Inwood, where 70 percent of the residents are Black or Latino, from Valley Stream, another large community of color along Nassau’s border with New York City. This change was a significant departure from the 2013 redistricting plan, which kept South Valley Stream and Inwood together in a majority-minority district. The 2023 Map submerged South Valley Stream and Inwood in Legislative District 7, a supermajority-white district.

148. The Map continued to dilute the influence of Asian voters by dividing a large, compact, and politically cohesive Asian community in western Nassau County across three districts—Legislative Districts 9, 10, and 18.

149. The Map also remained non-responsive to public feedback.

150. For example, the Map included the predominantly Black neighborhood of Lakeview with majority-white Malverne and Lynbrook in District 14. The February 27 Memo asserted that Lakeview had been made a part of District 14 because of the “strong community of interest created by the shared schools of Malverne and Lakeview.” But none of the numerous Lakeview residents who testified agreed that they shared a community of interest with Malverne because of a common school district or otherwise. Rather, as one resident explained to the Legislature, the Malverne school district has repeatedly rebuffed requests to be called the Malverne-Lakeview school district and Lakeview residents testified they had to “fight like the dickens” to get school bussing from their own district.

151. The February 27 Memo acknowledged that there were “requests to move Lakeview from District 14 to District 1,” but claimed the Map was “unable to accommodate this request.” To the contrary, maps can be readily drawn that keep Lakeview in a district with neighboring communities of color while complying with all other redistricting requirements.

152. After 9:30 p.m. on February 27, 2023, the Legislature passed the Map on a party-line vote.

153. The petitioning period for candidates for Nassau County Legislature began on February 28, 2023. On the same day, County Executive Blakeman signed the Map into law.

IV. As Its Proponents Intended, the Map Diluted Black, Latino, and Asian Voting Strength and Advantaged Republicans in the 2023 Election.

154. On November 7, 2023, relying on the new Map, the County held elections for the Nassau County Legislature.

155. Voters of color made no progress in increasing their representation in the Legislature, notwithstanding their immense population growth compared to white voters.

156. Republicans maintained a 12-7 majority in the Legislature.

157. Under the new Map, the four majority-minority CVAP districts elected three candidates of color, with one candidate winning by a narrow margin.

158. Republicans handily won districts where communities of color were cracked, including Districts 7, 9, 10, and 14. In District 14, which includes the predominately Black community of Lakeview, a white Republican was elected over a white Democrat.

159. In both Legislative Districts 9 and 10—two of the districts into which the Republicans split a large, compact, and politically cohesive Asian community—Asian Democratic candidates were defeated by non-Asian Republican candidates. During the campaign in District 10, a 14-year-old Asian-American intern for candidate Weihua Yan was punched, pushed, and called a racial slur while canvassing in the Village of Thomaston.

160. In Legislative District 5, where Minority Leader Abrahams declined to run for re-election, the race was contested between two white candidates. Francis X. Moroney, the Republican chair of the Legislature's Temporary Districting Advisory Commission in both the

2012-13 and 2022-23 cycles, once told the Legislature, “the goal of [the Voting Rights Act] is to ensure that people of certain racial or language status can elect somebody if they choose to run, somebody from their own population.” By refusing to comply with those protections against racial vote dilution, the Legislature denied that opportunity to the large, compact community of color in Freeport.

V. It Is Possible to Draw a Map That Complies with All Redistricting Criteria and Provides Nassau’s Fast-Growing Communities of Color with a Fair Opportunity to Elect Candidates of Choice and/or Influence the Outcome of Elections.

161. It is possible to draw a redistricting plan for the Nassau County Legislature that fully complies with all of Section 34’s requirements, including compliance with the state and federal constitutions, as well as the NYVRA and federal VRA; that districts be contiguous and as compact as practicable, not drawn to discourage competition, favor political parties or incumbents; that plans maintain cores of existing districts, pre-existing political subdivisions, and communities of interest; and that plans promote the orderly and efficient administration of elections.

162. Such a map would (a) achieve equipopulation within five percent of the mean population of all districts; (b) provide for six districts in which Black, Latino, and Asian residents constitute a majority of the CVAP and protect against the dilution of their voting strength; (c) keep together the large, compact Asian community in western Nassau County and give it the potential to elect its candidate of choice or the opportunity influence the outcome of elections; (d) maintain contiguity; (e) provide for reasonably compact districts; (f) not be drawn to discourage competition, or favor any candidates or political parties, or incumbents; (g) give adequate consideration to the preservation of political subdivisions, cores of existing districts, and communities of interest; and (h) promote the orderly administration of elections.

JURISDICTION AND VENUE

163. This Court has jurisdiction over this matter pursuant to Sections 10 and 34 of the Municipal Home Rule Law, Election Law § 17-206 [4], and CPLR § 3001.

164. Venue in this proceeding lies in Nassau County pursuant to CPLR § 503 [a] and Election Law § 17-206 [4].

EXPEDITED PROCEEDINGS

165. Under Election Law § 17-216, this action is subject to expedited pre-trial and trial proceedings and an automatic calendar preference on appeal.

166. The NYVRA specifically provides for expedited judicial proceedings: “Because of the frequency of elections, the severe consequences and irreparable harm of holding elections under unlawful conditions, and the expenditure to defend potentially unlawful conditions that benefit incumbent officials, actions brought pursuant to this title shall be subject to expedited pretrial and trial proceedings and receive an automatic calendar preference.” Election Law § 17-216.

COMPLIANCE WITH NOTICE OF NYVRA CLAIM

167. The plaintiffs provided notice of their NYVRA claim to the Nassau County Clerk in a letter sent by certified mail on December 14, 2023 and received by the Clerk on December 18, 2023.

FIRST CAUSE OF ACTION

168. Local Law 1 of 2023 violates Election Law § 17-206[2].

SECOND CAUSE OF ACTION

169. Local Law 1 of 2023 violates Section 34[4] of the Municipal Home Rule Law.

REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment and order against Defendants as follows:

- (1) Declare that the Map unlawfully dilutes the votes of Black, Latino, and Asian voters in violation of the NYVRA;
- (2) Declare that the Map fails to comply with the redistricting requirements of Section 34 of the Municipal Home Rule Law;
- (3) Enjoin Defendants from conducting any elections under the Map;
- (4) Appoint a Special Master to evaluate potential remedial plans and recommend to the Court a remedial plan for implementation without deferring to remedies proposed by Defendants, consistent with Election Law § 17-206[5][b];
- (5) Order the implementation of a remedial plan that complies with all applicable laws, including the NYVRA and Section 34 of the Municipal Home Rule Law;
- (6) Award reasonable attorneys' fees and litigation costs to Plaintiffs pursuant to Election Law §17-218; and
- (7) Award any other relief the Court deems just and proper.

Dated: February 7, 2023
New York, New York

Respectfully submitted,

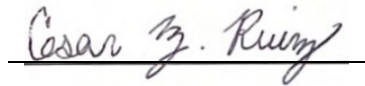
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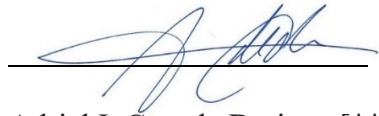
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[*] Application for admission *pro hac vice* forthcoming.

[**] Not admitted in the District of Columbia; practice limited pursuant to D.C. App. R. 49(c)(3).

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