

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MARK A. FAVORS, HOWARD LEIB,  
LILLIE H. GALAN, EDWARD A.  
MULRAINE, WARREN SCHREIBER, and  
WEYMAN A. CAREY,

Plaintiffs,

and

DONNA KAY DRAYTON, EDWIN ELLIS,  
AIDA FORREST, GENE A. JOHNSON, JOY  
WOOLLEY, and SHELIA WRIGHT,

Plaintiff-Intervenors,

and

LINDA LEE, SHING CHOR CHUNG, JULIA  
YANG, JUNG HO HONG,

Plaintiff-Intervenors,

and

JUAN RAMOS, NICK CHAVARRIA,  
GRACIELA HEYMANN, SANDRA  
MARTINEZ, EDWIN ROLDAN, MANOLIN  
TIRADO,

Plaintiff-Intervenors,

and

LINDA ROSE, EVERET MILLS, ANTHONY  
HOFFMANN, KIM THOMPSON-  
WEREKOH, CARLOTTA BISHOP, CAROL  
RINZLER, GEORGE STAMATIADES,  
JOSEPHINE RODRIGUEZ, and SCOTT  
AUSTER,

Plaintiff-Intervenors,

v.

ANDREW M. CUOMO, as Governor of the  
State of New York, ROBERT J. DUFFY, as  
President of the Senate of the State of New  
York, DEAN G. SKELOS, as Majority Leader  
and President Pro Tempore of the Senate of the  
State of New York, SHELDON SILVER, as

Case No. 1:11-cv-05632 (DLI)(RR)(GEL)

ROSE INTERVENORS' BRIEF IN  
RESPONSE TO MAGISTRATE'S ORDER  
TO SHOW CAUSE

Speaker of the Assembly of the State of New York, JOHN L. SAMPSON, as Minority Leader of the Senate of the State of New York, BRIAN M. KOLB, as Minority Leader of the Assembly of the State of New York, the NEW YORK STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT (“LATFOR”), JOHN J. McENENY, as Member of LATFOR, ROBERT OAKS, as Member of LATFOR, ROMAN HEDGES, as Member of LATFOR, MICHAEL F. NOZZOLIO, as Member of LATFOR, MARTIN MALAVE DILAN, as Member of LATFOR, and WELQUIS R. LOPEZ, as Member of LATFOR,

Defendants.

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The redistricting plan adopted by the Magistrate and reviewed by the three-judge panel will likely govern the voting rights of 19 million New Yorkers for the next decade, and the Rose Intervenors appreciate the Magistrate’s work on this monumentally important task. The importance and size of the task, however, are all the more reason to get things right, and the Rose Intervenors believe that in the rush of this case, the Magistrate has failed to develop a map that fully complies with New York redistricting policy and principles and has demanded responses on a timeframe that prevents meaningful comment and conflicts with the three-judge panel’s order.

The Magistrate issued its proposed map and background data at 11:54 p.m. on March 5, and the parties were unable to access the Census block equivalency files for the plan until after 7:30 a.m. on March 6. The Magistrate asked that the parties submit objections to the plan by 9 a.m. on March 7. This left barely 24 hours for parties to review 27 proposed districts for compliance with state and federal law, consult with their clients, consult with experts, and prepare responses. This was insufficient time for a task of this importance and scope. In particular, there was not enough time for expert assistance in reviewing the plan’s compliance with the Voting Rights Act, and there was insufficient time to identify specific remedies (that would achieve equal population requirements) for districts that unnecessarily paired incumbents,

altered the cores of prior districts, divided communities of interest, or cut political subdivision boundaries. Moreover, the three-judge panel's order in this case said that: "Any and all objections to the Report and Recommendation of the magistrate judge are to be filed . . . no later than noon on March 14, 2012." Dkt. 133. The Magistrate should not and cannot short-circuit that process by requiring parties to submit objections now or risk waiving them.

Nonetheless, in an abundance of caution, the Rose Intervenors state here that they have serious concerns at least as to proposed districts 3, 4, 17, 21, 25, and 26, as these districts either fail to preserve the core of the prior district, unnecessarily pair incumbents, divide communities of interest, cut political subdivision boundaries, or otherwise violate New York redistricting policy and principles. Revisions to any of these districts may also require changes to neighboring districts. The Rose Intervenors reserve the right to object to districts beyond those listed here on these same grounds upon further review, and to object to these and other districts after they have had a chance to consult with experts on the proposal's compliance with the Voting Rights Act, as contemplated by the three-judge panel's order.

Dated: March 7, 2012

By: /s/ Marc Erik Elias  
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