

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARK A. FAVORS, HOWARD LIEB, LILLIE
H. GALAN, EDWARD A. MULRAINE, WARREN
SHREIBER, and WEYMAN A. CAREY,

C.A. No. 11-CV-05632
(RR)(GEL)(DLI)(RLM)

Plaintiff,

ECF CASE

and

DONNA KAYE DRAYTON, EDWARD ELLIS,
AIDA FORREST, GENE A. JOHNSON, JOY
WOOLEY, SHEILA WRIGHT, LINDA LEE,
SHING CHOR CHUNG, JULIA YANG, JUNG
HO HUNG, JUAN RAMOS, NICK CHAVARRIA,
GRACIELA HEYMANN, SANDRA MARTINEZ,
EDWIN ROLDAN, MANOLIN TIRADO and
YITZCHOK ULLMAN,

**AMENDED
COMPLAINT-IN-INTERVENTION**

Intervenor Plaintiffs,

v.

ANDREW M. CUOMO, as Governor of the State of
New York, ERIC T. SCHNEIDERMAN, as Attorney
General 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 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
APPORTIONMENT ("LAFTOR"), 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,
MARTINMALAVE DILAN, as Member of LATFOR,
And WELQUIS R. LOPEZ, as Member of LATFOR,

Defendants.

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Plaintiff-Intervenor, Yitzchok Ullman, by and through his undersigned attorney, Lee D.

Apotheker, Esq., as and for the Amended Complaint-In-Intervention, allege as follows:

INTRODUCTION

1. Plaintiff Intervenor is a registered voter in New York State who resides in the Town of Ramapo.
2. Plaintiff Intervenor seeks to ensure that the contours of the State's assembly districts, as determined by the Special Master, this Court and the State Legislature, complies with the provisions of Article 1, Section 2 of the Constitution of the United States, the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and Article III, Section 5 of the New York State Constitution.

JURISDICTION AND VENUE

3. This Action arises under Article 1, Section 2 and the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.
4. Jurisdiction over Plaintiff Intervenor's federal constitutional claims is conferred pursuant to 28 U.S.C. §§ 1331 and 1343, and 42 U.S.C. §§ 1983 and 1988. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.
5. Supplemental jurisdiction over Plaintiff Intervenor's related state law and constitutional claims is conferred pursuant to 28 U.S.C. § 1367.
6. Venue in this district is proper pursuant to 28 U.S.C. § 1391.

PARTIES

7. Plaintiff Intervenor is a registered voter who resides within the Town of Ramapo. Plaintiff Intervenor represents the interests of all residents of the Town of Ramapo as well as his own interest, as voters.

8. Defendants are elected officials and authorities charged with redistricting and reapportionment in the State of New York after each federal decennial census.
9. Defendant, Andrew Cuomo, is the Governor of the State of New York.
10. Defendant, Robert J. Duffy, is the President of the Senate of the State of New York.
11. Defendant, Dean G. Skelos is the President Pro Tempore and Majority Leader of the Senate of the State of New York, and together with the Assembly is responsible for redrawing and reapportioning state assembly lines.
12. Defendant Sheldon Silver is the Speaker of the Assembly of the State of New York, and together with the Senate, is responsible for redrawing and reapportioning state assembly lines.
13. Defendant Brian M. Kolb is the Minority Leader of the Assembly of the State of New York.
14. Defendant John L. Sampson is the Minority Leader of the Senate of the State of New York.
15. Defendants New York State Legislative Task Force on Demographic Research and Reapportionment (LATFOR) is charged by the Legislature to reapportion and redraw state assembly districts pursuant to Chapter 45 of the New York State Laws of 1978.
16. Defendants, John J. McEneny, Robert Oaks, Roman Hedges, Michael F. Nozzolio, Martin M. Dilan, and Welquis R. Lopez are members of LATFOR.

FACTUAL BACKGROUND

17. Article 1, Section 2 of the Constitution of the United States and the Equal Protection Clause of the Fourteenth Amendment, require that following a decennial census, the number of congressional districts are to be apportioned among the states, and

boundaries of state legislative districts are to be redrawn.

18. Article III, Section 5 of the Constitution of the State of New York requires that state assembly districts be equal in population.
19. Article III Section 5 of the Constitution of the State of New York also provides as follows,

No Town, except a Town having more than a ration of apportionment and one half over, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts...
20. The most recent decennial census determined the total population figures for each state. These figures were provided to the United States Congress by the President of the United States in January of 2011. According to the census, New York is entitled to 27 congressional seats as opposed to the 29 congressional seats that currently exist. The congressional districts must, therefore, be redrawn.
21. The United States Constitution and the New York Constitution require that state legislative districts must be equal in terms of population. Consequently, the state assembly and legislative districts must also be redrawn.
22. The ideal population for an assembly district in the State of New York is 129,187 with a 5% +/- margin of acceptable deviation.
23. According to the 2010 U.S. census, the Town of Ramapo has a population of 126,595.
24. The Town of Ramapo is currently divided into three assembly districts known as Districts 94, 95, and 96. Plaintiff Intervenor resides within District 95.
25. No other town in the State of New York with a population below the ideal rate of apportionment is divided into more than one assembly district.

26. Currently, District 95 also contains the heavily Chasidic Jewish villages of Kaser and New Square. District 95 also contains the Village of Suffern. The District's Member of Assembly, the Hon. Ellen C. Jaffee, resides in Suffern.
27. During the elections held in November of 2010, the Village of New Square was divided into two election districts, Ramapo Districts 55 and 58. Assemblywoman Jaffee carried those two districts by a combined total of 1,841 to 80. See <http://www.co.rockland.ny.us/BOE/EL30110210.txt>.
28. During the elections held in November of 2010, the Village of Kaser was contained in Ramapo District 35. Although 1,017 ballots were cast in total, only 265 of those ballots included a vote for the State Assembly seat. Assemblywoman Jaffee lost District 35 by a total of 140 to 125, with an astounding 752 under votes. See <http://www.co.rockland.ny.us/BOE/EL30110210.txt>.
29. On March 15, 2012, the New York State Senate and Assembly passed legislation adopting new Assembly districts. That legislation has been sent to the Governor for signature.
30. LATFOR has created a map which reflects the new districts as established by the Legislature.
31. The assembly district map proposed by LATFOR shows that the Town of Ramapo will again be divided into three assembly districts now known as district numbers 96, 97, and 98.
32. The map reveals that the Assembly district boundary lines have been manipulated so as to separate the Villages of New Square and Kaser into two separate assembly districts. Under the new legislation, Plaintiff Intervenor and the Village of Kaser will

be contained within Assembly District 98 and the Villages of New Square and Suffern will be within Assembly District 97.

33. Kaser is geographically centered in between Suffern and New Square. Kaser and New Square are geographically closer to one another than New Square and Suffern.
34. Based upon the proposed districts and the 2010 election results, there is no question that the Proposed Assembly districts were drawn specifically to separate the Villages of New Square and Kaser.
35. On Page 31 of the March 19, 2012 Opinion and Order adopting the Report and Recommendations of Magistrate Judge Mann, this Court took judicial notice that Orthodox Jewish communities “share significant commonalities of interest.”
36. The Chassidic communities of New Square and Kaser are insular communities that unlike many other American Jewish communities have not assimilated into “mainstream” culture. The members of these communities are instantly recognizable just from their manner of dress. Chassidic Jews often speak Yiddish, a language that for a significant portion of history was the primary language spoken by Ashkenazi (or Eastern European) Jews. In this respect, Chassidic Jews are a separate and distinct ethnic group.
37. Under these circumstances it seems likely that absent judicial intervention in the redistricting process, the Town of Ramapo will be impermissibly divided into multiple assembly districts, and further that Plaintiff Intervenor will reside within an assembly district whose boundaries have been impermissibly drawn based upon religious considerations.

COUNT I

38. Plaintiff Intervenor incorporates all the paragraphs above as if fully set forth herein.
39. The existing and proposed assembly districts for the Town of Ramapo violate the “one person, one vote” provision of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and 42 U.S.C § 1983.

COUNT II

40. Plaintiff Intervenor incorporates all the paragraphs above as if fully set forth herein.
41. As a result of the failure to assign a single assembly district to the Town of Ramapo, Plaintiff Intervenor’s voting power has been diminished without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States and 42 U.S.C. § 1983.

COUNT III

42. Plaintiff Intervenor incorporates all the paragraphs above as if fully set forth herein.
43. New York’s current State Assembly district delineation, as well as the State Assembly delineations recently passed by the New York State Legislature, impermissibly divide the Town of Ramapo into more than one assembly district in violation of Article III, § 5 of the New York State Constitution.

COUNT IV

44. Plaintiff Intervenor incorporates all the paragraphs above as if fully set forth herein.
45. The Legislature’s recent passage of a redistricting plan which divides assembly districts based upon religious considerations effectively dilutes voting rights and violates the Equal Protection clause of the Fourteenth Amendment to the Constitution

of the United States and 42 U.S.C. § 1983.

WHEREFORE, Plaintiff Intervenor respectfully requests the following relief:

- A. An Order declaring New York's current Assembly districts to be invalid for failing to comply with the United States Constitution, the New York State Constitution and federal and state law;
- B. An Order directing the Special Master to propose new Assembly in conformity with the 2010 census and in conformity with state and federal law, including Article III, Section 5 of the New York State Constitution;
- C. An Order awarding Plaintiff Intervenor the costs of this action together with their reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and
- D. An Order for such other, further and different relief which may, in the discretion of the Court, be necessary and proper to ensure that timely and lawful redistricting of New York State Assembly lines are drawn.

Dated: White Plains, New York
March 27, 2012

Respectfully submitted,

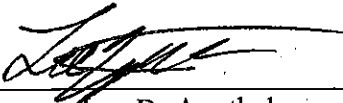


Lee D. Apotheker (LA-6070)
PANNONE LOPES DEVEREAUX & WEST LLC
Attorneys for Intervenor Plaintiff Yitzchok Ullman
81 Main Street, Suite 510
White Plains, New York 10601
(914)-898-2400 (Telephone)
(914)-898-2401 (Facsimile)
lapotheker@pldw.com

CERTIFICATE OF SERVICE

I, Lee D. Apotheker hereby certify that on this 27th day of March, 2012, this document was filed electronically and is available for reviewing and downloading by the ECF registered counsel of record.

Dated: White Plain, New York
March 27, 2012



Lee D. Apotheker