

EXHIBIT J

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ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERIC RODRIGUEZ, MARTIN MALAVE-DILAN,
HOWARD T. ALLEN, JEANNETTE SANTOS,
DONALD J. JIRAK, RICHARD FLATEAU, CHARLOTTE
A. TAYLOR, MERVYN A. CAMPBELL, SARAH BROCKUS,
PATRICIA MCDOW, LISA BEST, VICTOR OLUWOLE,
RUBEN RANGEL, IRIS PELLERANO, RUSSELL
VELAZQUEZ, GUILLERMO LINARES, ISABEL
EVANGELISTA, MARTHA L. PEPIN, MARISEFA REYES,
MARIA URENA, TYRONE ZIMMERMAN, JOSE
ALVARADO, IRVIN MCMANUS, WAYNE HALL, SAMUEL
PRIOLEAU, WILLIAM RODRIGUEZ, NEVILLE MULLINGS,
MARY ADAMS, EUGENE A. BURNETT, SR., HAZEL PALMORE,
JOHNNY W. VELEZ, JUDITH CRUZ,

02 Civ. 618 (RMB)

AMENDED COMPLAINT

DOC # 260

Plaintiffs,

-against-

GEORGE E. PATAKI, Governor of the State
of New York, MARY O. DONOHUE, Lt.
Governor and President of the Senate of
the State of New York, ELIOT SPITZER,
Attorney General of the State of New York,
JOSEPH L. BRUNO, President Pro Tempore
and Majority Leader of the Senate of the
State of New York, SHELDON SILVER,
Speaker of the Assembly of the State of New
York, MARTIN E. CONNOR, Minority Leader of the
Senate of the State of New York, CHARLES NESBITT,
Minority Leader of the State of New York, and CAROL
BERMAN, NEIL W. KELLEHER, HELENA M. DONOHUE
and EVELYN J. AQUILA, Commissioners of the New York
State Board of Elections,

Defendants.

FILED
U.S. DISTRICT COURT
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Pursuant to the three-judge court's leave to file an amended complaint, plaintiffs
by their attorneys, Law Offices of Gregory C. Soumas, Esq., Law Offices of Henry T. Berger,

Esq., Emery Cuti Brinckerhoff & Abady, PC, Law Offices of Frederick Brewington, Esq., and Law Offices of David T. Goldberg, Esq., as and for their Amended Complaint, allege as follows:

INTRODUCTION

1. This is a civil rights action brought under the Voting Rights Act and 42 U.S.C. § 1983 seeking declaratory and injunctive relief against the recently-enacted New York State Senate districting plan because the plan violates one-person, one-vote principles, in violation of the Equal Protection Clause, dilutes the votes of African-American and Hispanic voters, in violation of § 2 of the Voting Rights Act, 42 U.S.C. § 1973, and includes districts drawn predominantly on the basis of race, in violation of the Equal Protection Clause. This action also challenges the Legislature's failure to redraw congressional district lines to reflect changes in population reported in the 2000 census, in violation of Article I, § 2 and the Fourteenth Amendment.

JURISDICTION AND VENUE

2. This action arises under 42 U.S.C. § 1983, the Voting Rights Act, and the Fourteenth Amendment to the United States Constitution.

3. This Court has jurisdiction pursuant to 28 U. S. C. §§ 1331, 1343(a)(3), (4), 2201, 2202, and 42 U.S.C. § 1983.

4. Venue is proper in this District pursuant to 28 U.S.C. §1391.

5. A three-judge Court should be convened pursuant to 28 U.S.C. § 2284(a).

THE PARTIES

6. Plaintiff Eric Rodriguez ("Eric Rodriguez") is a resident of and a registered voter in the Bronx, Bronx County, New York. He resides in the newly-enacted 34th

Senate District and the 7th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is of Hispanic origin.

7. Plaintiff Martin Malave-Dilan ("Malave-Dilan") is a resident of and a registered voter in Brooklyn, Kings County, New York. He resides in the newly-enacted 17th Senate District and the 12th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is of Hispanic origin.

8. Plaintiff Howard T. Allen ("Allen") is a resident of and a registered voter in Manhattan, New York County, New York. He resides in the newly-enacted 29th Senate District and the 14th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is African-American.

9. Plaintiff Jeannette Santos ("Santos") is a resident of and a registered voter in the town of Babylon, Suffolk County, New York. She resides in the newly-enacted 8th Senate District and the 2nd Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is of Hispanic origin.

10. Plaintiff Donald J. Jirak ("Jirak") is a resident of and a registered voter in Manhattan, New York County, New York. He resides in the newly-enacted 29th Senate District and the 8th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is a non-Hispanic white person.

11. Plaintiff Richard Flateau ("Flateau") is a resident of and a registered voter in Brooklyn, Kings County, New York. He resides in the newly-enacted 18th Senate District and the 10th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is African-American.

12. Plaintiff Charlotte A. Taylor ("Taylor") is a resident of and a registered voter in Manhattan, New York County, New York. She resides in the newly-enacted 26th Senate District and the 14th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is a non-Hispanic white person.

13. Plaintiff Mervyn A. Campbell ("Campbell") is a resident of and a registered voter in Uniondale, Nassau County, New York. He resides in the newly-enacted 6th Senate District and the 4th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is African-American.

14. Plaintiff Sarah Brockus ("Brockus") is a resident of and a registered voter in Manhattan, New York County, New York. She resides in the newly-enacted 30th Senate District and the 8th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is a non-Hispanic white person.

15. Plaintiff Patricia McDow ("McDow") is a resident of and a registered voter in the Yonkers, Westchester County, New York. She resides in the newly-enacted 35th Senate District and the 17th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is an African-American person.

16. Plaintiff Lisa Best ("Best") is a resident of and a registered voter in the Yonkers, Westchester County, New York. She resides in the newly-enacted 35th Senate District and the 17th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is an African-American person.

17. Plaintiff Victor Oluwole ("Oluwole") is a resident of and a registered voter in the Yonkers, Westchester County, New York. He resides in the newly-enacted 35th Senate

District and the 18th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is an African-American person.

18. Plaintiff Ruben Rangel ("Rangel") is a resident and registered voter in the Bronx, Bronx County, New York. He resides in the newly-enacted 34th Senate District and the 17th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is a Hispanic person.

19. Plaintiff Iris Pellerano ("Pellerano") is a resident and registered voter in the Bronx, Bronx County, New York. She resides in the newly-enacted 34th Senate District and the 7th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is a Hispanic person.

20. Plaintiff Russell Velazquez ("Velazquez") is a resident and registered voter in the Bronx, Bronx County, New York. He resides in the newly-enacted 34th Senate District and the 17th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is a Hispanic person.

21. Plaintiff Guillermo Linares ("Linares") is a resident and registered voter in the Bronx, Bronx County, New York. He resides in the newly-enacted 31st Senate District and the 15th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is a Hispanic person.

22. Plaintiff Isabel Evangelista ("Evangelista") is a resident and registered voter in Manhattan, New York County, New York. She resides in the newly-enacted 31st Senate District and the 15th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is a Hispanic person.

23. Plaintiff Martha Pepin ("Pepin") is a resident and registered voter in Manhattan, New York County, New York. She resides in the newly-enacted 31st Senate District and the 15th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is a Hispanic person.

24. Plaintiff Marisefa Reyes ("Reyes") is a resident and registered voter in Manhattan, New York County, New York. She resides in the newly-enacted 31st Senate District and the 15th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is a Hispanic person.

25. Plaintiff Maria Urena ("Urena") is a resident and registered voter in Manhattan, New York County, New York. She resides in the newly-enacted 31st Senate District and the 15th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is a Hispanic person.

26. Plaintiff Tyrone Zimmerman ("Zimmerman") is a resident and registered voter in Yonkers, Westchester County, New York. He resides in the newly-enacted 35th Senate District and the 17th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is an African-American person.

27. Plaintiff Jose Alvarado ("Alvarado") is a resident and registered voter in Yonkers, Westchester County, New York. He resides in the newly-enacted 35th Senate District and the 18th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is a Hispanic person.

28. Plaintiff Irvin R. McManus ("McManus") is a resident and registered voter in Yonkers, Westchester County, New York. He resides in the newly-enacted 35th Senate District

and the 17th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is a Hispanic person.

29. Plaintiff Wayne Hall ("Hall") is a resident and registered voter in Hempstead, Nassau County, New York. He resides in the newly-enacted 6th Senate District and the 4th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is an African-American person.

30. Plaintiff Samuel Prioleau ("Prioleau") is a resident and registered voter in West Hempstead, Nassau County, New York. He resides in the newly-enacted 6th Senate District and the 4th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is an African-American person.

31. Plaintiff William Rodriguez ("William Rodriguez") is a resident and registered voter in Hempstead, Nassau County, New York. He resides in the newly-enacted 6th Senate District and the 4th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is a Hispanic person.

32. Plaintiff Neville Mullings ("Mullings") is a resident and registered voter in Westbury, Nassau County, New York. He resides in the newly-enacted 7th Senate District and the 4th Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is an African-American person.

33. Plaintiff Mary Adams ("Adams") is a resident and registered voter in Roosevelt, Nassau County, New York. She resides in the newly-enacted 8th Senate District and the 4th Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is an African-American person.

34. Plaintiff Eugene A. Burnett, Sr. ("Burnett") is a resident and registered voter in Wyandanch, Suffolk County, New York. He resides in the newly-enacted 4th Senate District and the 2nd Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is an African-American person.

35. Plaintiff Hazel Palmore ("Palmore") is a resident and registered voter in Amityville, Suffolk County, New York. She resides in the newly-enacted 8th Senate District and the 2nd Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is an African-American person.

36. Plaintiff Johnny Velez ("Velez") is a resident and registered voter in Brentwood, Suffolk County, New York. He resides in the newly-enacted 3rd Senate District and the 2nd Congressional District. He is eligible to vote for members of the state Senate and Congress from the aforesaid districts. He is a Hispanic person.

37. Plaintiff Judith Cruz ("Cruz") is a resident and registered voter in Brentwood, Suffolk County, New York. She resides in the newly-enacted 3rd Senate District and the 2nd Congressional District. She is eligible to vote for members of the state Senate and Congress from the aforesaid districts. She is a Hispanic person.

38. Defendant George E. Pataki is the Governor of the State of New York and its chief executive officer. Defendant Pataki is a participant with the New York State Legislature in re-drawing congressional and state legislative district lines after each decennial census as required by the United States Constitution, the Constitution of the State of New York and the laws of the State of New York. He is being sued in his official capacity.

39. Defendant Mary O. Donohue is the Lieutenant Governor of the State of New York and the President of the Senate of the State of New York, which, together with the Assembly of the State of New York and the Governor, is responsible for re-drawing congressional and state legislative district lines after each decennial census as required by the United States Constitution, the Constitution of the State of New York and the laws of the State of New York. She is being sued in her official capacity.

40. Defendant Eliot Spitzer is the Attorney General of the State of New York, the State's highest ranking law-enforcement officer. He is being sued in his official capacity.

41. Defendant Joseph L. Bruno is President Pro Tempore and Majority Leader of the Senate of the State of New York. The Senate, together with the Assembly of the State of New York and the Governor, is responsible for re-drawing congressional and state legislative district lines after each decennial census as required by the United States Constitution, the Constitution of the State of New York, and the laws of the State of New York. He is being sued in his official capacity.

42. Defendant Sheldon Silver is Speaker of the Assembly of the State of New York. The Assembly, together with the Senate of the State of New York and the Governor, is responsible for re-drawing congressional and state legislative district lines after each decennial census as required by the United States Constitution, the Constitution of the State of New York, and the laws of the State of New York. He is being sued in his official capacity.

43. Defendant Martin E. Connor is the Minority Leader of the Senate of the State of New York. The Senate, together with the Assembly of the State of New York and the Governor, is responsible for re-drawing congressional and state legislative district lines after each

decennial census, as required by the United States Constitution, the Constitution of the State of New York, and the laws of the State of New York. He is being sued in his official capacity.

44. Defendant Charles Nesbitt is the Minority Leader of the Assembly of the State of New York. The Assembly, together with the Senate of the State of New York and the Governor, is responsible for re-drawing congressional and state legislative district lines after each decennial census, as required by the United States Constitution, the Constitution of the State of New York, and the laws of the State of New York. He is being sued in his official capacity.

45. Defendants Carol Berman, Neil W. Kelleher, Helena M. Donohue and Evelyn J. Aquila are the Commissioners of the New York State Board of Elections, which is responsible for administering the Election Law of the State of New York and the elections conducted pursuant to that law. They are being sued in their official capacities.

FACTUAL ALLEGATIONS

I. The Results of the 2000 Census for New York

46. According to the results of the federal census of 2000, the downstate region of New York State, including New York City and its northern suburbs, is the fastest growing area in New York State. In the decade since the previous census, the officially reported population of New York City and its northern suburbs, Westchester and Rockland counties, increased by 8.9%. The total population of Long Island increased by 5.5% over the last ten years. By contrast, in the decade since the previous census, the total population of the 53-county upstate New York region increased by only 1.2%.

47. According to the 2000 federal census, New York City, Westchester County, and Rockland County have a population of 9,218,490, 48.58% of the total population of the State.

48. According to the 2000 federal census, Nassau and Suffolk counties have a population of 2,753,913, 14.51% of the total population of the State.

49. According to the 2000 federal census, the 53-county upstate region has a total population of 7,004,054, 36.91% of the total population of the State.

50. These population figures significantly understate the downstate region's share of the total State population.

51. The census counts for 2000 significantly and disproportionately undercount the actual numbers of members of racial and language minorities relative to non-Hispanic white persons, and those groups are concentrated in New York City and its northern suburbs, Westchester and Rockland County. By contrast, the 53-county upstate region is populated overwhelmingly by non-Hispanic white persons.

52. Based on the unadjusted Census figures, the allocation according to population of Senate seats in a 62-member Senate is as follows: 30 seats to New York City and its northern suburbs, 9 seats to Nassau and Suffolk, and 23 seats to the 53-county upstate region.

II. The State Senate Plan

53. As a result of the population changes reported in the 2000 census, the New York State Senate is now dramatically and unconstitutionally malapportioned.

54. In recognition of its constitutional responsibility to redraw the district lines, the State Legislature chartered a taskforce, known as the Legislative Task Force on

Demographic Research and Reapportionment ("the Task Force"), to draw new districts for the State Senate, State Assembly, and Congress.

55. Beginning in the summer of 2000 and continuing until February 26, 2002, the Task Force's website informed concerned New Yorkers that the size of the Senate would remain at 61 members. This information led concerned citizens and advocacy groups to offer proposals based on a 61-seat Senate.

56. On February 14, 2002, the Co-Chairmen of the Task Force published a proposed State Senate and Assembly Plan, which increased the size of the Senate from 61 to 62. That plan was amended on April 8, 2002.

57. On April 10, 2002, the New York Legislature enacted the amended districting plan for the New York State Senate and Assembly proposed by the Taskforce as Chapter 35 of the Laws of 2002 ("the State Senate Plan"). Governor Pataki signed the districting plan into law on April 22, 2002. Chapter amendments to the plan were adopted by the Legislature on April 22, 2002 and have been forwarded to the Governor for his signature. (Attached as Ex. A are maps of the state senate districts drawn in the State Senate Plan and demographic data concerning the districts).

A. *The Under-Representation of Minority Voters in New York City and its Northern Suburbs*

58. The State Senate districts fall into three regions of apportionment: Districts 1-9 (Nassau and Suffolk County), Districts 10-38 (New York City and its northern suburbs: Rockland County, most of Westchester County, and a small portion of Orange County),

and Districts 39-62 (the 53-county upstate region, the upper portion of Westchester County, and a small portion of Orange County).

59. In giving 29 districts to New York City and its northern suburbs and 24 districts to the upstate region, the Legislature ignored basic allocation mathematics, which dictates that New York City and its northern suburbs have 30 districts and the upstate region have 23 districts.

60. In order to draw State Senate districts to add to the upstate region one district and deny the downstate region one district, the State Legislature disregarded one-person, one-vote principles, and did so with a built-in bias in favor of the overwhelmingly non-Hispanic white, upstate region of New York.

61. The State Senate Plan has a total deviation, between the largest and smallest districts, of 9.78% – a marked increase from the 1972, 1982, and 1992 plans – and every single downstate district (Districts 10-38) is over-populated and every single upstate district (Districts 39-62) is under-populated.

62. The State Legislature knew that, because of the undercount of minority communities, these disparities are, in fact, substantially greater than the unadjusted census figures indicate.

63. Based on the 2000 census data, the ideal population of each Senate district in a 62-member Senate is 306,072 persons.

64. Under the State Senate Plan, based on census data, the total deviation between the smallest and largest districts is 9.78% of the ideal district population. The largest

district exceeds a total of seven other districts by at least 9% of the ideal population, and a total of eight districts exceed the smallest district by at least 9%.

65. Under the State Senate Plan, the average deviation is 2.22%.

66. Under the State Senate Plan, the standard deviation is 2.72%.

67. The departure from population equality in the State Senate Plan is not adequately measured by the total deviation between the single largest and single smallest districts. All the positive deviations are concentrated in the downstate districts, and all the negative deviations are concentrated in the 53-county upstate region.

68. Traditional districting principles are not the reason for the departure from equal population. In every New York State legislatively-drawn redistricting plan since the Supreme Court's enunciation of the one-person, one-vote doctrine, the Legislature drew senate districts that more closely approximated strict population equality, and could have done so in the current plan.

69. In the 1972 Senate Plan, the total deviation was 1.83%, the average deviation was 0.12%, and the standard deviation was 0.27%.

70. In the 1982, Senate Plan, the total deviation was 5.30%, the average deviation was 0.83%, and the standard deviation was 1.09%.

71. In the 1992 Senate Plan, the total deviation was 4.29%, the average deviation was .90%, and the standard deviation was 1.07%.

72. In the 1972, 1982, and 1992 Senate plans, the Legislature did not concentrate all the positive deviations in downstate New York and all the negative deviations in the 53-county upstate region. Rather, deviations from population equality were spread

throughout the State where departure from strict population equality was necessary to further traditional districting principles, such as respecting governmental or geographic boundary lines. Neither the 1972, 1982, nor the 1992 plans contained a built-in bias against the downstate districts.

73. The Legislature did not make a good-faith effort to draw districts to comport with the demands of population equality.

74. The State Senate Plan's built-in bias has a discriminatory impact on New York State's minority communities.

75. Districts 39-62 (the overwhelmingly non-Hispanic white upstate region) have a population of 7,135,867. Based on an ideal district of 306,072, this population supports 23.31 districts. Under the State Senate Plan, the Legislature rounded this number up to 24, contrary to basic, neutral mathematical principles.

76. Because the State Senate Plan gave the upstate region one more seat than it was entitled to, all of the districts in the overwhelmingly non-Hispanic white, upstate regions of New York (Senate Districts 39-62) are under-populated in comparison to the ideal district.

77. Districts 10-38 (the downstate region), which contains in excess of 80% of the State's minority communities, have a population of 9,086, 677. Based on an ideal district of 306,072, this population supports 29.69 districts. Under the State Senate Plan, the Legislature rounded this number down to 29, contrary to basic, neutral mathematical principles.

78. Under the State Senate Plan, all of the districts in New York City and its northern suburbs (Senate Districts 10-38) – districts in which the State's African-American,

Hispanic, and other minority voters are concentrated – are overpopulated in comparison to the ideal district.

79. Because the 2000 census undercounted minority populations relative to the non-Hispanic white population, the actual over-population of the minority-concentrated downstate districts and under-population of the upstate districts are greater than the above numbers reveal.

80. Because the downstate regions of the State are growing faster than the upstate regions, the under-representation of the minority-concentrated downstate districts and over-representation of the upstate districts will continue to increase.

81. As a result of the State Senate Plan's over-population of the minority-concentrated downstate districts, the votes of African-American and Hispanic persons in the downstate New York City region – approximately 80% of the total number of the State's voting age minority population – are diluted, debased and devalued in comparison to the votes of persons in the overwhelmingly non-Hispanic white upstate region of the State.

82. As a result of the State Senate Plan's over-population of the minority-concentrated downstate districts, persons in the downstate New York City region – including approximately 80% of the total number of the State's voting age minority population – are under-represented in comparison to persons in the overwhelmingly non-Hispanic white 53-county upstate region.

83. The over-population of the minority-concentrated New York City districts was not necessary to achieve any legitimate districting principles.

84. The Task Force had before it proposed State Senate plans that drew contiguous, compact districts, which preserve existing political subdivisions, traditionally recognized communities, and communities defined by actual shared interests, with greater population equality and without over-populating the minority-concentrated downstate districts.

85. The State Legislature could have drawn a State Senate Plan with contiguous, compact districts, which preserve existing political subdivisions, traditionally recognized communities, and communities defined by actual shared interests, with greater population equality (a total deviation of 4.4%, a mean deviation of 1.17%, and a standard deviation of 1.38%) and without over-populating the minority-concentrated downstate districts. (Attached as Ex. B are maps of plaintiffs' proposed alternative state senate districts, demographic data concerning the districts, and comparison charts regarding the compactness and respect for political subdivisions for both the State Senate Plan and the Plaintiffs' Plan).

B. The State Senate Plan's Dilution of Minority Voting Strength

86. Across New York State, African-Americans and Hispanic persons are sufficiently numerous, geographically compact, and politically cohesive to draw 16 compact majority-minority districts and one district in which minority voters would have an realistic opportunity to effect the outcome of elections.

87. Across New York State, African-Americans and Hispanic voters are politically cohesive.

88. Across New York State, voting has been and continues to be racially polarized between non-Hispanic white persons and African-American and Hispanic persons.

89. The State Senate Plan contains 48 districts in which non-Hispanic white persons form a majority of the voting age population, 8 districts in which African-American persons form a majority of the voting age population, and 6 districts in which Hispanic persons form a majority of the voting age population.

90. Each of the 48 districts in which non-Hispanic white persons form a majority of the voting age population is drawn to preclude minority voters from having an effective opportunity to influence the outcome of elections.

91. The Legislature could have drawn two additional majority-minority districts and one additional district in which minority voters would have a realistic opportunity to effect the outcome of elections.

92. By failing to draw sixteen majority-minority districts and one district in which minority voters would have a realistic opportunity to effect the outcome of elections, the State Senate Plan dilutes the voting strength of African-American and Hispanic persons.

1. The State Senate Plan's Treatment of African-American and Hispanic Voters in the Northern Bronx and Southern Westchester Area

93. In northern Bronx and southern Westchester counties, there are large and geographically compact African-American and Hispanic communities, located predominantly in the Fordham, Bedford Park, Kingsbridge, Kingsbridge Heights sections of the Bronx and in the City of Yonkers.

94. Plaintiffs Eric Rodriguez, McDow, Best, Oluwole, Rangel, Pellerano, Velazquez, Zimmerman, Alvarado, and McManus are members of these communities.

95. Members of the African-American and Hispanic communities in Northern Bronx and Southern Westchester counties bear the effects of discrimination in education, employment, and health, which hinders their ability to participate in the political process.

96. Voting in elections in Northern Bronx and Southern Westchester counties has been and continues to be racially polarized.

97. African-American and Hispanic persons in Northern Bronx and Southern Westchester counties have been subject to official discrimination touching on the right to register, vote and/or otherwise participate in the political process.

98. African-American and Hispanic voters in Northern Bronx and Southern Westchester counties are sufficiently large and geographically compact to draw a compact district in which African-Americans and Hispanics would constitute a majority of the voting age population.

99. African-American and Hispanic voters in Northern Bronx and Southern Westchester counties are politically cohesive.

100. A compact majority-minority district could be drawn in northern Bronx and southern Westchester counties in which Hispanic persons are 44.8% of the voting age population and African-American persons are 19.1% of the voting age population. Non-Hispanic white persons would constitute 27.4% of the voting age population of this district. (This district is included in Plaintiffs' Plan, attached as Ex. B).

101. The State Senate Plan created majority-minority districts in which the minority voting age population formed comparable, and in some cases smaller, majorities.

102. Rather than drawing this majority-minority district, the Legislature placed minority voters in northern Bronx and southern Westchester counties into districts in which non-Hispanic white voters vastly outnumber minority voters and in which voting has been and continues to be racially polarized.

103. Rather than drawing this majority-minority district, the Legislature placed minority voters in northern Bronx County into the 34th Senate District.

104. Senate District 34 is a bizarrely-shaped, non-compact district that was drawn in disregard of traditional districting principles.

105. The predominant purpose of the lines of Senate District 34 was to pack in non-Hispanic white voters on the basis of race and segregate these non-Hispanic white voters from minority voters in the adjoining majority-minority districts.

106. Non-Hispanic white persons are 59.5% of the voting age population of Senate District 34. Hispanic voters are 20.4% of the voting age population. African-American persons are 12.8% of the voting age population.

107. Voting in elections in areas constituting Senate District 34 has been and continues to be racially polarized.

108. As a result, in elections taking place in the area constituting Senate District 34, non-Hispanic white voters, voting as a bloc, will outvote African-American and Hispanic voters, thereby preventing them from electing their preferred candidates.

109. Rather than drawing a majority-minority district, the Legislature placed minority voters in southern Westchester County into the 35th Senate District.

110. Non-Hispanic white persons are 61.9% of the voting age population of Senate District 35. Hispanic voters are 17.9% of the voting age population. African-American persons are 12.5% of the voting age population.

111. Voting in elections in areas constituting Senate District 35 has been and continues to be racially polarized.

112. As a result, in elections taking place in the area constituting Senate District 35, non-Hispanic white voters, voting as a bloc, will outvote African-American and Hispanic voters, thereby preventing them from electing their preferred candidates.

113. Three discrete discriminatory practices resulted in the Legislature's failure to draw a majority-minority district in northern Bronx and southern Westchester counties.

114. First, the Legislature could not draw a majority-minority district in northern Bronx and southern Westchester counties because of the bizarre shape of Senate District 34, which was drawn in disregard of traditional districting principles in order to pack in non-Hispanic white voters on the basis of race and segregate these non-Hispanic white voters from minority voters in adjoining majority-minority districts.

115. Second, the Legislature could not draw a majority-minority district in northern Bronx and southern Westchester counties because the Legislature had packed minority voters into districts 28, 32, and 36 – districts in which the African-American and Hispanic voting age population is in excess of 80% of the total voting age population and in which the non-Hispanic white voting age population is miniscule.

116. Third, as discussed above, by over-populating all the downstate districts and under-populating all the upstate districts, the State Legislature drew only 29 districts downstate, thereby depriving the downstate region of one district.

117. Had the Legislature apportioned districts statewide using basic mathematical principles, it would have created 30 districts in the minority-concentrated downstate region and 23 districts in the upstate region.

118. Had the Legislature done so, it could have created a compact majority-minority district in northern Bronx and southern Westchester counties.

119. As a result of the State Senate Plan's over-population and under-representation of persons in the minority-concentrated New York City districts, the Legislature failed to draw a majority-minority district in northern Bronx and southern Westchester counties.

120. As a result of the State Senate Plan's failure to draw an additional majority-minority district in northern Bronx and southern Westchester counties, African-American and Hispanic persons in northern Bronx and southern Westchester counties and across the state have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice.

121. The State Senate Plan has the result of diluting the voting power of African-American and Hispanic persons in northern Bronx and southern Westchester counties and across the state on account of race.

2. *The State Senate Plan's Treatment of African-American and Hispanic Voters in Nassau County*

122. In Nassau County, there are large African-American and Hispanic communities, located primarily in the villages and communities of Freeport, Roosevelt, Hempstead, Lakeview, Westbury, New Cassel, Elmont, South Floral Park, Uniondale, North Valley Stream, and Baldwin.

123. Members of the African-American and Hispanic communities in Nassau County bear the effects of discrimination in education, employment, and health, which hinders their ability to participate in the political process.

124. Voting in elections in Nassau County has been and continues to be racially polarized.

125. Racial appeals have been used in political campaigns in Nassau County.

126. Few members of the African-American and Hispanic communities have been elected to office in Nassau County. Some African-American and Hispanic officials were elected to office only after litigation brought under the Voting Rights Act and the United States Constitution to eliminate discriminatory practices that diluted the voting strength of the African-American and Hispanic communities in Nassau County.

127. No members of the African-American or Hispanic communities have been elected to the State Senate from Nassau County.

128. African-American and Hispanic persons in Nassau County have been subject to official discrimination touching on the right to register, vote and/or otherwise

participate in the political process, including the use of literacy tests and voter purge laws to disenfranchise minority voters.

129. The African-American and Hispanic communities are growing rapidly. The 2000 census shows that, in the last decade, the African-American and Hispanic population of Nassau County increased, while the non-Hispanic white population shrunk.

130. Plaintiffs Campbell, Hall, Prioleau, William Rodriguez, Mullings, and Adams are members of these communities.

131. In Nassau County, the African-American and Hispanic communities are sufficiently large to draw a compact district in which African-Americans and Hispanics would constitute a majority of the voting age population.

132. A compact majority-minority district could be drawn in Nassau County in which African-American and Hispanic persons are 54.31% of the voting age population. (This district is included in Plaintiffs' Plan, attached as Ex. B).

133. African-American and Hispanic voters in Nassau County are politically cohesive.

134. Despite the size and political cohesion of these communities, no candidate preferred by the African-American and Hispanic communities has ever been elected to the State Senate from Nassau County.

135. Not surprisingly, elected officials in Nassau County are unresponsive to the needs of the African-American and Hispanic communities in Nassau County.

136. This record of political powerlessness is the result of the repeated drawing of district lines over the last 30 years to dilute the voting strength of the African-American and Hispanic communities in Nassau County.

137. As in each re-districting since 1972, the State Senate Plan has split minority communities in Nassau County to dilute their voting strength.

138. The State Senate Plan fragments the compact, politically cohesive African-American and Hispanic populations in the villages and communities of Freeport, Roosevelt, Hempstead, Lakeview, Westbury, New Cassel, Elmont, South Floral Park, Uniondale, North Valley Stream, and Baldwin, and disperses their members into Senate Districts 6, 7, 8, and 9 – districts so dominated by non-Hispanic whites that minority voters and their concerns may be safely ignored.

139. The size and configuration of the State Senate districts makes campaigning much more difficult for the candidates preferred by the African-American and Hispanic communities in Nassau County.

140. Campaign financing is especially difficult in such large districts for the candidates preferred by the African-American and Hispanic communities in Nassau County.

141. Under the State Senate Plan, Senate District 6 is a non-Hispanic white-majority district in which non-Hispanic white persons are 69% of the voting age population. African-American persons are 15.4% of the voting age population. Hispanic persons are 11.2% of the voting age population.

142. Voting in elections in the area constituting Senate District 6 has been and continues to be racially polarized.

143. As a result, in elections taking place in the area constituting Senate District 6, non-Hispanic white voters will outvote African-American and Hispanic voters, thereby preventing African-American and Hispanic voters from electing their preferred candidates.

144. Under the State Senate Plan, Senate District 7 is a non-Hispanic white majority district in which white persons are 73.1% of the voting age population. African-American persons are 8% of the voting age population. Hispanic persons are 9.3% of the voting age population.

145. Voting in elections in the area constituting Senate District 7 has been and continues to be racially polarized.

146. As a result, in elections taking place in the area constituting Senate District 7, non-Hispanic white voters will outvote African-American and Hispanic voters, thereby preventing African-American and Hispanic voters from electing their preferred candidates.

147. Under the State Senate Plan, Senate District 8 is a non-Hispanic white majority district in which non-Hispanic white persons are 71.9% of the voting age population. African-American persons are 14.5% of the voting age population. Hispanic persons are 10.3% of the voting age population.

148. Voting in elections in the area constituting Senate District 8 in Nassau County has been and continues to be racially polarized.

149. As a result, in elections taking place in the area constituting Senate District 8 in Nassau County, non-Hispanic white voters will outvote African-American and Hispanic voters, thereby preventing African-American and Hispanic voters from electing their preferred candidates.

150. Under the State Senate Plan, Senate District 9 is a non-Hispanic white majority district in which white persons are 81.5% of the voting age population. African-American persons are 5.4% of the voting age population. Hispanic persons are 8.5% of the voting age population.

151. Voting in elections in the area constituting Senate District 9 has been and continues to be racially polarized.

152. As a result, in elections taking place in the area constituting Senate District 9, non-Hispanic white voters will outvote African-American and Hispanic voters, thereby preventing African-American voters and Hispanic from electing their preferred candidates.

153. The African-American and Hispanic communities in Nassau County have been fragmented into multiple State Senate districts to dilute their voting strength in each State Senate districting plan enacted by the Legislature in the last three redistricting cycles: 1972, 1982, and 1992.

154. Despite numerous changes in the drawing of the Nassau County State Senate Districts in 1982, 1992, and under the 2002 State Senate Plan, in each of these redistricting cycles, the State Legislature has consistently divided the African-American and Hispanic communities into multiple districts in order to protect non-Hispanic white control of the electoral process and to dilute African-American and Hispanic voting power.

155. The intent of the repeated fragmentation of African-American and Hispanic communities in Nassau County into multiple State Senate districts was to dilute the voting strength of African-American and Hispanic voters in Nassau County on account of race.

156. The intent of the fragmentation of African-American and Hispanic communities in the villages and communities of Freeport, Roosevelt, Hempstead, Lakeview, Westbury, New Cassel, Elmont, South Floral Park, Uniondale, North Valley Stream, and Baldwin, was to dilute the voting strength of African-American and Hispanic voters residing in these areas on account of race.

157. The Legislature continued the fragmentation of the African-American and Hispanic communities into multiple State Senate districts in the face of increasing African-American and Hispanic voting age population in Nassau County. Indeed, as the 2000 census shows, in the 1990s, the African-American and Hispanic voting age population in Nassau County increased, while the non-Hispanic white voting age population in Nassau County shrunk.

158. The splitting of the African-American and Hispanic communities in Nassau County was not done to preserve existing local government subdivisions or traditionally recognized communities.

159. The splitting of the African-American and Hispanic communities in Nassau County divides numerous local government subdivisions and communities united by shared interests.

160. Had the Legislature not fragmented African-American and Hispanic communities on account of race, the Legislature could have drawn a compact combined African-American-Hispanic majority-district, encompassing African-American and Hispanic voters in villages and communities of Freeport, Roosevelt, Hempstead, Lakeview, Westbury, New Cassel, Elmont, South Floral Park, Uniondale, North Valley Stream, and Baldwin, which is contiguous and compact, and which preserves, to the maximum extent feasible, existing political

subdivisions, traditionally recognized communities, and communities defined by actual shared interests. (This district is included in Plaintiffs' Plan, attached as Ex. B).

161. The Task Force heard testimony and had before it a proposed districting plan submitted by several concerned citizens' groups, which created a combined African-American-Hispanic majority-district, encompassing African-American and Hispanic communities in villages and communities of Freeport, Roosevelt, Hempstead, Lakeview, Westbury, New Cassel, Elmont, South Floral Park, Uniondale, North Valley Stream, and Baldwin, which was compact, consistent with traditional districting principles, and not drawn on account of race.

162. The State Senate Plan created majority-minority districts in which the minority voting age population formed comparable, or in some cases, smaller, majorities.

163. The State Legislature disregarded traditional districting principles in order to dilute the voting power of the African-American and Hispanic communities in Nassau County.

164. The State Senate Plan has the result of diluting the voting power of the African-American and Hispanic communities in Nassau County and across the state on account of race.

165. Under the State Senate Plan, members of the African-American and Hispanic communities in Nassau County and across the state have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice.

3. *The State Senate Plan's Treatment of African-American and Hispanic Voters in Suffolk County*

166. In Suffolk County, there are large African-American and Hispanic communities, located primarily in the villages and communities of North Amityville, Wyandanch, Wheatley Heights, Deer Park, Central Islip, Brentwood, North Bay Shore, Bay Shore, Islandia, Baywood, Copiague, and Amityville.

167. African-American and Hispanic persons in Suffolk County have been subject to official discrimination touching on the rights to register, vote and/or otherwise participate in the political process.

168. Voting in elections in Suffolk County has been racially polarized.

169. Racial appeals have been used in political campaigns in Suffolk County.

170. Few, if any, members of the African-American and Hispanic communities have been elected to office in Suffolk County.

171. No members of the African-American and Hispanic communities in Suffolk County have been elected to the State Senate.

172. African-American and Hispanic persons in Suffolk County bear the effects of discrimination in education, employment, and health, which hinders their ability to participate in the political process.

173. The African-American and Hispanic communities are growing rapidly. The 2000 census shows that, in the last decade, the African-American and Hispanic population of Suffolk County increased, while the non-Hispanic white population shrunk.

174. Plaintiffs Santos, Burnett, Palmore, Velez, and Cruz are members of these communities.

175. In Suffolk County, the African-American and Hispanic voting age populations are sufficiently numerous to draw a compact district in which African-American and Hispanic voters have a realistic opportunity to effect the outcome of elections.

176. A compact district could be drawn in Suffolk County in which African-American and Hispanic persons are 40.18% of the voting age population. (This district is included in Plaintiffs' Plan, attached as Ex. B).

177. African-American and Hispanic voters in Suffolk County are politically cohesive.

178. Despite the size and political cohesion of these communities, the preferred candidate of the African-American and Hispanic communities has never been elected to the State Senate from Suffolk County.

179. Not surprisingly, elected officials in Suffolk County are unresponsive to the needs of the African-American and Hispanic communities.

180. This record of political powerlessness is the result of the repeated drawing of district lines over the last 30 years to dilute the voting strength of the African-American and Hispanic communities in Suffolk County.

181. As in each State Senate re-districting since 1972, the State Senate Plan splits minority communities to dilute their voting strength.

182. The State Senate Plan fragments the compact, politically cohesive African-American and Hispanic voting age populations in the villages and communities of North

Amityville, Wyandanch, Wheatley Heights, Deer Park, Central Islip, Brentwood, North Bay Shore, Bay Shore, Islandia, Baywood, Copiague, and Amityville into State Senate Districts 3, 4 and 8 – districts so dominated by non-Hispanic white voters that minority voters and their concerns may be safely ignored.

183. The size and configuration of the State Senate districts makes campaigning much more difficult for the candidates preferred by the African-American and Hispanic communities in Suffolk County.

184. Campaign financing is especially difficult in such large districts for the candidates preferred by the African-American and Hispanic communities in Suffolk County.

185. Under the State Senate Plan, Senate District 3 is a non-Hispanic white majority district in which non-Hispanic white persons are 74.3% of the voting age population. African-American persons are 6.7% of the voting age population. Hispanic persons are 15.6% of the voting age population.

186. Voting in elections in the area constituting Senate District 3 has been and continues to be racially polarized.

187. As a result, in elections taking place in the area constituting Senate District 3, non-Hispanic white voters will outvote African-American and Hispanic voters, thereby preventing African-American and Hispanic voters from having a meaningful opportunity to effect the outcome of the electoral process and elect their preferred candidates.

188. Under the State Senate Plan, Senate District 4 is a non-Hispanic white majority district in which non-Hispanic white persons are 76.4% of the voting age population.

African-American persons are 8.4% of the voting age. Hispanic persons are 11.9% of the voting age population.

189. Voting in elections in the area constituting Senate District 4 has been and continues to be racially polarized.

190. As a result, in elections taking place in the area constituting Senate District 4, non-Hispanic white voters will outvote African-American and Hispanic voters, thereby preventing African-American and Hispanic voters from having a meaningful opportunity to effect the outcome of the electoral process and elect their preferred candidates.

191. Under the State Senate Plan, Senate District 8 is a non-Hispanic white majority district in which non-Hispanic white persons are 71.9% of the voting age population. African-American persons are 14.5% of the voting age population. Hispanic persons are 10.3% of the voting age population.

192. Voting in elections in the area constituting Senate District has been and continues to be racially polarized.

193. As a result, in elections taking place in the area constituting Senate District 8, non-Hispanic white voters will outvote African-American and Hispanic voters, thereby preventing African-American and Hispanic voters from having a meaningful opportunity to effect the outcome of the electoral process and elect their preferred candidates.

194. The African-American and Hispanic communities in Suffolk County has been fragmented into multiple State Senate districts to dilute their voting strength in each State Senate districting plan enacted by the Legislature in the last three redistricting cycles: 1972, 1982, 1992.

195. Despite numerous changes in the drawing of the Suffolk County State Senate Districts in 1982, 1992, and in the 2002 State Senate Plan, the State Legislature has consistently divided the African-American and Hispanic communities into multiple districts in order to protect non-Hispanic white control of the electoral process and to dilute African-American and Hispanic voting power.

196. The splitting of the African-American and Hispanic communities in Suffolk County was not done to preserve existing local government subdivisions or traditionally recognized communities.

197. The splitting of the African-American and Hispanic communities in Suffolk County divides numerous local government subdivisions and communities united by shared interests.

198. Senate District 8, for example, is largely made up of population in Nassau County, but also takes in large African-American and Hispanic communities in the village of North Amityville and portions of the villages and communities of Amityville, Copiague, and Wyandanch, all of which are in Suffolk County, unnecessarily disregarding the county boundary and splitting minority voters in those villages from others nearby, who were placed into Senate District 4.

199. The purpose of the repeated fragmentation of African-American and Hispanic communities in Suffolk County into multiple State Senate districts was to dilute the voting strength of African-American and Hispanic voters in Suffolk County on account of race.

200. The purpose of the fragmentation of African-American and Hispanic communities in North Amityville, Wyandanch, Wheatley Heights, Deer Park, Central Islip, Brentwood, North Bayshore, Bayshore, Islandia, Baywood, Copiague, and Amityville was to dilute the voting strength of African-American and Hispanic voters residing in these areas on account of race.

201. The Legislature continued the fragmentation of the African-American and Hispanic communities into multiple State Senate districts in the face of increasing African-American and Hispanic voting age population in Suffolk County. Indeed, as the 2000 census shows, in the 1990s, the African-American and Hispanic voting age population in Suffolk County increased, while the non-Hispanic white voting age population in Suffolk County shrunk.

202. Had the Legislature not fragmented African-American and Hispanic communities on account of race, the Legislature could have drawn a district in which minority voters would have a realistic opportunity to effect the outcome of elections, encompassing African-American and Hispanic voters in North Amityville, Wyandanch, Wheatley Heights, Deer Park, Central Islip, Brentwood, North Bayshore, Bayshore, Islandia, Baywood, Copiague, and Amityville, which is contiguous and compact, and which preserves existing political subdivisions, traditionally recognized communities, and communities defined by actual shared interests. (This district is included in Plaintiffs' Plan, attached as Ex. B).

203. The Task Force had before it several proposed districting plans, which created a district in which minority voters would have a realistic opportunity to effect the outcome of elections, encompassing African-American and Hispanic voters in North Amityville, Wyandanch, Wheatley Heights, Deer Park, Central Islip, Brentwood, North Bayshore, Bayshore,

Islandia, Baywood, Copiague, and Amityville, which was compact, consistent with traditional districting principles, and not drawn on account of race.

204. The State Legislature disregarded traditional districting principles in order to dilute the voting power of the African-American and Hispanic communities.

205. The State Senate Plan has the result of diluting the voting power of the African-American and Hispanic communities in Suffolk County and across the state on account of race.

206. Under the State Senate Plan, members of the African-American and Hispanic communities in Suffolk County and across the state have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice.

III. The Failure to Pass a Redistricting Plan for Congressional Districts

207. According to the 2000 census, national population growth outpaced population growth in New York State.

208. Accordingly, the size of the New York State congressional delegation will be reduced from 31 to 29.

209. The New York State Legislature has failed to pass a districting plan for the new congressional districts.

AS AND FOR A FIRST CAUSE OF ACTION (Equal Protection Clause, 14th Amendment)

210. Plaintiffs repeat and re-allege the allegations in paragraphs 1-209 as if fully set forth herein.

211. The Equal Protection Clause requires equal representation in all state legislative bodies and that the districting plans for such bodies reflect a good faith effort to achieve population equality.

212. Under the State Senate Plan, based on census data, the total deviation between the smallest and largest districts is 9.78% of the ideal district population. The largest district exceeds a total of seven districts by at least 9% of the ideal population, and a total of eight districts exceed the smallest district by at least 9%.

213. In the last three State Senate districting cycles, the Legislature drew senate districts that more closely approximated strict population equality.

214. The State Senate Plan contains a built-in bias in favor of the overwhelmingly non-Hispanic white, upstate regions of New York.

215. Under the State Senate Plan, all of the districts in the overwhelmingly non-Hispanic white, upstate regions of New York (Senate Districts 39-62) are under-populated in comparison to the ideal district. Under the State Senate Plan, all of the districts in New York City and its northern suburbs (Senate Districts 10-38) – districts in which the State's African-American, Hispanic, and other minority voters are concentrated – are overpopulated in comparison to the ideal district.

216. As a result of the State Senate Plan's over-populating of the minority concentrated New York City districts, the votes of African-American and Hispanic persons in the downstate New York City region – approximately 80% of the total number of the State's voting age minority population – are diluted, debased and devalued in comparison to the votes of non-

Hispanic white persons in the overwhelmingly non-Hispanic white 53-county upstate region of the State.

217. There is no legitimate justification for the State Senate Plan's discrimination against residents of New York City and its northern suburbs.

218. The Legislature did not make a good faith effort to draw the state senate districts to comport with the demands of population equality.

219. The State Senate Plan violates the constitutional requirement of one-person, one-vote.

220. The State Senate Plan violates plaintiffs' rights guaranteed by the Equal Protection Clause of the Fourteenth Amendment.

221. Plaintiffs have no adequate remedy at law.

AS AND FOR A SECOND CAUSE OF ACTION
(§ 2 of Voting Rights Act, 42 U.S.C. §1973)

222. Plaintiffs repeat and re-allege the allegations in paragraphs 1-221 as if fully set forth herein.

223. Section 2 of the Voting Rights Act is a nationwide ban on any voting standard, practice or procedure that has the purpose or effect of denying or abridging the right to vote on account of race. Section 2 is violated where, in the totality of circumstances, members of racial and/or language minorities have less opportunity than other members of the electorate to participate in political process and to elect representatives of their choice.

224. The State Senate Plan is a standard, practice, or procedure with respect to voting.

225. Across New York State, African-Americans and Hispanic persons are sufficiently numerous, geographically compact, and politically cohesive to draw 16 compact majority-minority districts and one district in which minority voters would have a realistic opportunity to effect the outcome of elections.

226. Across New York State, African-Americans and Hispanic voters are politically cohesive.

227. Across New York State, voting has been and continues to be racially polarized.

228. Because of racially polarized voting statewide, plaintiffs Eric Rodriguez, Santos, Campbell, Flateau, Allen, Linares, Evangelista, Pepin, Reyes, Urena, McDow, Pellerano, Rangel, Best, Oluwole, Zimmerman, Velazquez, Alvarado, McManus, Hall, Prioleau, William Rodriguez, Mullings, Adams, Burnett, Palmore, Velez, and Cruz, members of the politically-cohesive African-American and Hispanic communities, will have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice in violation of § 2 of the Voting Rights Act.

229. By failing to draw sixteen majority-minority districts and one district in which minority voters would have a realistic opportunity to effect the outcome of elections, the State Senate Plan dilutes the votes of African-American and Hispanic persons on account of race.

230. The State Senate Plan violates plaintiffs' rights guaranteed by § 2 of the Voting Rights Act.

231. Plaintiffs have no adequate remedy at law.

AS AND FOR A THIRD CAUSE OF ACTION
(§ 2 of Voting Rights Act, 42 U.S.C. §1973)

232. Plaintiffs repeat and re-allege the allegations in paragraphs 1-231 as if fully set forth herein.

233. Section 2 of the Voting Rights Act is a nationwide ban on any voting standard, practice or procedure that has the purpose or effect of denying or abridging the right to vote on account of race. Section 2 is violated where, in the totality of circumstances, members of racial and/or language minorities have less opportunity than other members of the electorate to participate in political process and to elect representatives of their choice.

234. The State Senate Plan is a standard, practice, or procedure with respect to voting.

235. By under-representing and over-populating the minority-concentrated New York City districts and its northern suburbs and over-representing the non-Hispanic white-dominated 53-county upstate region, the State Senate Plan dilutes, debases, and devalues the votes of plaintiffs Eric Rodriguez, Malave-Dilan, Flateau, Allen, Linares, Evangelista, Pepin, Reyes, Urena, McDow, Pellerano, Rangel, Best, Oluwole, Zimmerman, Velazquez, Alvarado, and McManus, African-American and Hispanic persons in the minority-concentrated region of New York City and its northern suburbs, in comparison to the votes of those persons who reside in the overwhelmingly non-Hispanic white 53-county upstate region of the State in violation of § 2 of the Voting Rights Act.

236. By failing to create a majority-minority district in northern Bronx and southern Westchester counties, the State Senate Plan has the result of diluting the voting power

of the African-American and Hispanic voters in New York City and its northern suburbs and statewide on account of race in violation of § 2 of the Voting Rights Act.

237. Three discrete discriminatory practices resulted in the Legislature's failure to draw a majority-minority district in northern Bronx and southern Westchester counties.

238. First, the Legislature could not draw a majority-minority district in northern Bronx and southern Westchester counties because of the bizarre shape of Senate District 34, which was drawn in disregard of traditional districting principles in order to pack in non-Hispanic white voters on the basis of race and segregate these non-Hispanic white voters from minority voters in adjoining majority-minority districts.

239. Second, the Legislature could not draw a majority-minority district in northern Bronx and southern Westchester counties because the Legislature had packed minority voters into districts 28, 32, and 36 – districts in which the African-American and Hispanic voting age population is in excess of 80% of the total voting age population and in which the non-Hispanic white voting age population is miniscule.

240. Third, as discussed above, by over-populating all the downstate districts and under-populating all the upstate districts, the State Legislature drew only 29 districts downstate, thereby depriving the downstate region of one district.

241. Because of racially polarized voting in northern Bronx and southern Westchester counties, plaintiffs Eric Rodriguez, Pellerano, Rangel, Best, Oluwole, Zimmerman, Velazquez, Alvarado, and McManus, members of the politically-cohesive African-American and Hispanic communities in those areas, will have less opportunity than other members of the

electorate to participate in the political process and elect representatives of their choice in violation of § 2 of the Voting Rights Act.

242. The State Senate Plan violates plaintiffs' rights guaranteed by § 2 of the Voting Rights Act.

243. Plaintiffs have no adequate remedy at law.

AS AND FOR A FOURTH CAUSE OF ACTION
(§ 2 of Voting Rights Act, 42 U.S.C. §1973)

244. Plaintiffs repeat and re-allege the allegations in paragraphs 1-243 as if fully set forth herein.

245. Section 2 of the Voting Rights Act is a nationwide ban on any voting standard, practice or procedure that has the purpose or effect of denying or abridging the right to vote on account of race. Section 2 is violated where, in the totality of circumstances, members of racial and/or language minorities have less opportunity than other members of the electorate to participate in political process and to elect representatives of their choice.

246. The State Senate Plan is a standard, practice, or procedure with respect to voting.

247. By fragmenting into multiple districts politically cohesive, compact African-American and Hispanic communities in Nassau County, who are sufficiently numerous to form a majority-minority district, the State Senate Plan has the result of diluting the voting power of the African-American and Hispanic voters in Nassau County on account of race in violation of § 2 of the Voting Rights Act.

248. As a result of this fragmentation, plaintiffs Campbell, Hall, Prioleau, William Rodriguez, Mullings, and Adams, members of African-American and Hispanic communities in Nassau County, have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice in violation of § 2 of the Voting Rights Act.

249. Under the State Senate Plan, because of racially polarized voting in Nassau County, plaintiffs Campbell Hall, Prioleau, William Rodriguez, Mullings, and Adams, members of the African-American and Hispanic communities, will have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice in violation of § 2 of the Voting Rights Act.

250. The purpose of the fragmentation of African-American and Hispanic communities in Nassau County into multiple districts was to dilute the voting strength of African-American and Hispanic voters on account of race in violation of § 2 of the Voting Rights Act.

251. The State Senate Plan violates plaintiffs' rights guaranteed by § 2 of the Voting Rights Act.

252. Plaintiffs have no adequate remedy at law.

AS AND FOR A FIFTH CAUSE OF ACTION
(§ 2 of Voting Rights Act, 42 U.S.C. §1973)

253. Plaintiffs repeat and re-allege the allegations in paragraphs 1-252 as if fully set forth herein.

254. Section 2 of the Voting Rights Act is a nationwide ban on any voting standard, practice or procedure that has the purpose or effect of denying or abridging the right to vote on account of race. Section 2 is violated where, in the totality of circumstances, members of racial and/or language minorities have less opportunity than other members of the electorate to participate in political process and to elect representatives of their choice.

255. The State Senate Plan is a standard, practice, or procedure with respect to voting.

256. By fragmenting into multiple districts politically cohesive, compact African-American and Hispanic communities in Suffolk County, who are sufficiently numerous to form a district in which minority voters would have a realistic opportunity to effect the outcome of elections, the State Senate Plan has the result of diluting the voting power of the African-American and Hispanic communities in Suffolk County on account of race in violation of § 2 of the Voting Rights Act.

257. As a result of this fragmentation, plaintiffs Santos, Burnett, Palmore, Velez, and Cruz, members of African-American and Hispanic communities in Suffolk County, have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice in violation of § 2 of the Voting Rights Act.

258. Under the State Senate Plan, because of racially polarized voting in Suffolk County, plaintiffs Santos, Burnett, Palmore, Velez, and Cruz, members of the African-American and Hispanic communities will have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice in violation of § 2 of the Voting Rights Act.

259. The purpose of the fragmentation of African-American and Hispanic communities in Suffolk County into multiple districts was to dilute the voting strength of African-American and Hispanic voters on account of race in violation of § 2 of the Voting Rights Act.

260. The State Senate Plan violates plaintiff's rights guaranteed by § 2 of the Voting Rights Act.

261. Plaintiffs have no adequate remedy at law.

AS AND FOR A SIXTH CAUSE OF ACTION
(Equal Protection Clause, 14th Amendment)

262. Plaintiffs repeat and re-allege the allegations in paragraphs 1-261 as if fully set forth herein.

263. The Equal Protection Clause forbids states from drawing district lines predominantly on the basis of race.

264. The State Legislature drew Senate District 34 predominantly on the basis of race.

265. Senate District 34 is a bizarrely-shaped, non-compact district that was drawn in disregard of traditional districting principles.

266. From the outset of the redistricting process, the Legislature was committed to drawing District 34 to include an overwhelming non-Hispanic white majority and never seriously considered any other alternative composition for the district.

267. The Legislature used and manipulated detailed racial data to achieve this purpose, creating a bizarrely-shaped non-compact district.

268. The predominant purpose of the lines of Senate District 34 was to pack in non-Hispanic white persons on the basis of race and segregate these non-Hispanic white persons from minority communities in adjoining majority-minority districts.

269. The lines drawn by the State Legislature in Senate District 34 violate the rights of plaintiffs, Rodriguez, Pellerano, Rangel, and Velazquez, Hispanic voters assigned to District 34, guaranteed by the Equal Protection Clause.

270. Plaintiffs have no adequate remedy at law.

AS AND FOR A SEVENTH CAUSE OF ACTION
(Article I, § 2, Equal Protection Clause)

271. Plaintiffs repeat and reallege paragraphs 1-270 as if fully set forth herein.

272. The United States Constitution in Article I, §2 provides, in part, that “Representatives shall be apportioned among the several States...according to their respective numbers....” Article I, §2 further provides, in part, that “[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States....”

273. Article I, § 2 of the Constitution and the Equal Protection Clause of the Fourteenth Amendment require that congressional districts be drawn to achieve population equality as nearly as is practicable.

274. On December 28, 2000, the President of the United States sent to Congress the total population figures for each state. These figures show that New York is entitled to 29 congressional seats for the next ten years.

275. There are currently 31 congressional districts in New York State.

276. The New York State Legislature is charged with the responsibility of

eliminating two Congressional districts and re-drawing the remaining 29 Congressional districts.

277. No plan for redistricting of the New York State Congressional districts has been introduced into either chamber of the New York State Legislature.

278. Without judicial intervention, a redistricting plan for the New York State Congressional districts will not be enacted in time to conduct the elections in timely manner.

279. According to the 2000 Census, the congressional districts as they now exist are no longer equal in population. The population of the largest congressional district exceeds that of the smallest by 121,317, giving the existing districts a total deviation of 18.5% of the mean district population of the 29 congressional districts to be drawn.

280. The existing districts violate the requirement of population equality.

281. The existing districts violate plaintiffs' rights guaranteed by Article I, § 2 of the federal Constitution and the Equal Protection Clause of the Fourteenth Amendment.

282. Plaintiffs have no adequate remedy at law.

WHEREFORE, plaintiffs demand judgment as follows:

1. an order declaring the State Senate plan violates § 2 of the Voting Rights Act and the Equal Protection Clause of the Fourteenth Amendment and enjoining its enforcement;
2. an order preliminarily enjoining enforcement of the State Senate Plan and drawing an interim redistricting plan for the 2002 State Senate elections;
3. an order permanently enjoining the State Senate Plan and re-drawing the district lines for the State Senate districts;
4. an order declaring that the existing congressional districts violate Article I,

§ 2 of the federal Constitution and the Equal Protection Clause of the Fourteenth Amendment;

5. an order re-drawing the district lines for congressional districts;

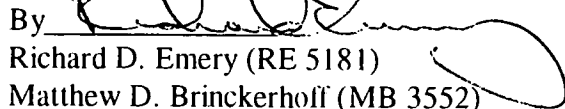
6. awarding plaintiffs the costs of this action and their reasonable attorneys'

fees pursuant to 42 U.S.C. § 1973l(e) and 42 U.S.C. § 1988; and

7. granting such other, further and different relief as to the Court may deem just and proper.

Dated: April 24, 2002
New York, NY

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