September 12, 2024

VIA NYSCEF

Hon. David F. Everett
Justice of the Supreme Court
Westchester County Courthouse
111 Dr. Martin Luther King Jr. Boulevard
White Plains, New York 10601

Re: Sergio Serrato *et al*. v. Town of Mount Pleasant, et al.
Index No. 55442/2024 (Westchester Co., NY)

Dear Justice Everett:

We write to you on behalf of *Amici* the ACLU of Southern California, ACLU of Northern California, and Campaign Legal Center to submit, in accordance with the parties' August 29, 2024 Stipulation, Dkt. 141, the attached *Amici Curiae* Brief in Opposition to Defendants' Motion for Summary Judgment. As outlined in the brief, *Amici* have extensive experience supporting the enactment of, advocating for, and litigating under state voting rights acts which are relevant to this Court's consideration of the constitutionality of the New York Voting Rights Act. Thank you for your Honor's consideration.

Respectfully submitted,

Julia A. Gomez

Simone Leeper
Campaign Legal Center
1101 114th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200

Julia A. Gomez
ACLU Foundation of Southern California
1313 W 8th Street, #200
Los Angeles, CA 90017
(213) 977-5253

Angélica Salceda
ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111
(415) 621-2493

Enclosure

cc: All counsel of record via NYSCEF

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

SERGIO SERRATTO, ANTHONY AGUIRRE, IDA MICHAEL, and KATHLEEN SIGUENZA, Plaintiffs, -against- TOWN OF MOUNT PLEASANT and TOWN BOARD OF THE TOWN OF MOUNT PLEASANT, Defendants.	Index No. 55442/2024

BRIEF OF *AMICI CURIAE* ACLU OF SOUTHERN CALIFORNIA, ACLU OF NORTHERN CALIFORNIA, AND CAMPAIGN LEGAL CENTER IN OPPOSITTION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

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I. Introduction

The Legislature enacted the New York Voting Rights Act (NYVRA or "the Act") in 2022 to protect the rights of New York voters to enjoy equal opportunities to participate in the political process, free from discriminatory local election systems. By adopting the NYVRA, New York joined other states in implementing a state voting rights act (SVRA) that builds upon the protections of the federal Voting Rights Act of 1965 and is designed to identify and address modern day voting discrimination. The NYVRA also shares key provisions with the California Voting Rights Act (CVRA) and the Washington Voting Rights Act (WVRA), and court cases that have interpreted and upheld the constitutionality of the CVRA and the WVRA reinforce the constitutionality of the NYVRA. *Amici* urge this Court to reject Defendants' arguments that the NYVRA violates the U.S. Constitution, because the Act is a race-neutral anti-discrimination law to which strict scrutiny does not apply, provides for race-neutral and constitutional remedies, and was passed in accordance with New York's authority to create anti-discrimination laws that go beyond federal law.

II. Identities and Interests of Amici

Campaign Legal Center (CLC) is a nonpartisan, nonprofit organization dedicated to advancing democracy through law. Through its extensive work on redistricting and voting rights, CLC seeks to ensure that every U.S. resident receives fair representation at federal, state, and local levels. CLC has supported the enactment of state-level voting rights acts in Connecticut, Minnesota, New York, Oregon, Virginia, and Washington, as well as proposed acts in Maryland, Michigan, and New Jersey. CLC served as counsel for the plaintiffs in the first case brought under the WVRA and has also litigated numerous cases under the federal Voting Rights Act.

The American Civil Liberties Union (ACLU) is a nationwide, nonprofit, nonpartisan membership organization dedicated to the defense and promotion of the guarantees of individual rights and liberties embodied in the federal constitution. The ACLU of Southern California and the ACLU of Northern California (together, the "ACLU California Affiliates") are regional affiliates that have litigated vote dilution cases in support of these constitutional principles, including cases under the CVRA. The ACLU California Affiliates were one of the original supporters of the CVRA's enacting legislation and have since supported and sponsored legislation to expand and improve the law.

Amici's expertise in this area should be of assistance to the Court given their extensive experience supporting the enactment of SVRAs as well as advocating and litigating under SVRAs. This case has significant implications for New York residents whose voting rights are protected by the NYVRA, and for voters across the country whose rights are safeguarded by similar SVRAs. The proper resolution of this case is therefore of great interest to *Amici* and the members of *Amici* ACLU California Affiliates. *Amici* have specifically drafted their brief to address the constitutionality of the NYVRA's vote dilution provisions which are similar to the vote dilution provisions in other SVRAs.

III. Factual Summary

Amici concur with and adopt the Factual Summary set forth in Plaintiffs' Memorandum of Law in Support of Their Motion for Summary Judgment. Dkt. 60.

IV. Argument

A. The NYVRA incorporates key provisions from other SVRAs.

The NYVRA's key vote dilution provisions mirror those of the CVRA and WVRA in ways that, as discussed *infra*, make each law consistent with the Fourteenth Amendment. And the

experiences of state courts implementing the CVRA and WVRA demonstrate that, despite Defendants' assertions to the contrary, *see, e.g.*, Dkt. 118 at 3-10, the NYVRA provides clear standards that are understandable and enforceable by courts.

First, like the CVRA and WVRA, the NYVRA protects voters who are members of any "race, color, or language-minority group." N.Y. Elec. Law § 17-204(5); *see also* Cal. Elec. Code § 14026(d); Wash. Rev. Code § 29A.92.010(6). In so doing, these SVRAs "confer[] on voters of any race a right to sue for an appropriate alteration in voting conditions when racial vote dilution exists." *Sanchez v. City of Modesto*, 145 Cal. App. 4th 660, 680 (Cal. Ct. App. 2006).

Second, the NYVRA, CVRA, and WVRA all similarly define liability for vote dilution. The WVRA finds a violation when "[m]embers of a protected class or classes do not have an equal opportunity to elect candidates of their choice as a result of the dilution . . . of the rights of members of that protected class or classes." Wash. Rev. Code § 29A.92.030(1)(b). The CVRA is even more like the NYVRA: under the CVRA, a violation occurs when an election system "impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of [vote] dilution." Cal. Elec. Code § 14027; N.Y. Elec. Law § 17-206(2)(a) (an NYVRA violation exists if an election system has "the effect of impairing the ability of members of a protected class to elect candidates of their choice or influence the outcome of elections, as a result of vote dilution").

Third, as with the CVRA and WVRA, a successful NYVRA plaintiff must present evidence that establishes that the protected group's vote is, in fact, impaired as a result of the challenged election system. N.Y. Elec. Law §§ 17-206(2)(a)-(b); *Pico Neighborhood Ass'n v. City of Santa Monica*, 534 P.3d 54, 64-65 (Cal. 2023), *as modified* (Sept. 20, 2023) (plaintiff must show racially polarized voting (RPV) and that there exists an alternative "undiluted" voting practice) (citing Cal.

Elec. Code §§ 14027, 14028(a)); *Portugal v. Franklin Cnty.*, 530 P.3d 994, 1003 (Wash. 2023), *cert. denied sub nom. Gimenez v. Franklin Cnty., Washington*, 144 S. Ct. 1343 (2024) (plaintiff must show RPV and that members of a protected class lack an equal opportunity to elect candidates of choice as a result of dilution).

The Supreme Court of California emphasized this point in *Pico* when it rejected the city's argument that a CVRA plaintiff had to show RPV, and nothing more, to establish liability. *Pico*, 534 P.3d at 64. Instead, a CVRA plaintiff must establish RPV and prove a "real world effect" by pointing to an alternative voting system or map to serve as a benchmark against which the challenged system can be measured. *Id*. at 64-65, 70. This is because, although, read in isolation, the CVRA's vote dilution provision might be susceptible to an interpretation that RPV is all that is needed to establish liability, "dilution" "is a term of art with a settled meaning under section 2" that "suggests a norm with respect to which the fact of dilution may be ascertained." *Id*. at 64 (quoting *Holder v. Hall*, 512 U.S. 874, 880 (1994) (plurality)). Plaintiffs bringing a claim under the NYVRA's vote dilution provisions, which closely mirror the CVRA in prohibiting impairments "as a result of vote dilution," can likewise show this "real world effect" by combining evidence of vote dilution—as demonstrated by either the existence of RPV or evidence that, based on the totality of the circumstances, the protected group's vote is impaired—with evidence that there is an alternative voting system that would not result in vote dilution. *See* N.Y. Elec. Law §§ 17-206(2)(a)-(b); *Pico*, 534 P.3d at 68 ("Determining whether the protected class has the potential to elect its preferred candidate under some alternative system requires a functional analysis of the political process in that locality and a searching practical evaluation of the past and present reality.") (citing *Thornburg v. Gingles*, 478 U.S. 30, 62-63 (1986)) (internal quotation marks omitted).

Finally, neither the CVRA nor the WVRA nor the NYVRA incorporates the federal Voting Rights Act's first *Gingles*, 478 U.S. at 50, precondition that requires a Section 2 plaintiff to show that a protected group is sufficiently large and geographically compact to constitute a voting majority in a hypothetical single-member district. Cal. Elec. Code § 14028(c); Wash. Rev. Code § 29A.92.030(5); N.Y. Elec. Law § 17-206(2)(c). This is because the *Gingles* prong I is sometimes a poor fit to assess vote dilution, particularly in states like California, Washington, and New York where localities may be less residentially segregated, a majority may not be necessary for a group to elect candidates of their choice or influence the outcome of elections, and, where pivotally, remedies are not limited to single-member district elections. *See Pico*, 534 P.3d at 65-68 (discussing the CVRA's rejection of a compactness threshold for liability and instead providing that compactness may be a factor in determining an appropriate remedy); *Portugal*, 530. P.3d at 1003 (same for WVRA); N.Y. Elec. Law §§ 17-206(2)(a)-(c), 17-206(5) (prohibiting dilutive systems that impair the ability to influence the outcome of elections, allowing for the consideration of coalition and crossover voting behavior to support a dilution claim, and outlining available remedies that go beyond single-member districts).

Contrary to Defendants' assertions that the NYVRA's provisions make the Act "too indeterminate to enforce," courts and litigants in California and Washington have found the CVRA and WVRA readily administrable. *See, e.g.*, *Kaku v. City of Santa Clara*, No. 17CV319862, 2019 WL 331053 (Cal. Super. Ct. Jan. 22, 2019), *aff'd Yumori-Kaku v. City of Santa Clara*, 59 Cal. App. 5th 385, 273 Cal. Rptr. 3d 437 (Cal. Ct. App. 2020) (finding CVRA violation based on RPV, supported by totality of the circumstances); *Aguilar v. Yakima County*, No. 20-2Elec-0018019 (Kittitas Cnty. Super. Ct.) (approving settlement of WVRA challenge to at-large voting system).

B. The NYVRA does not violate the U.S. Constitution.

Defendants' challenges to the NYVRA under the Equal Protection Clause of the U.S. Constitution fail because the NYVRA is a race-neutral antidiscrimination law to which strict scrutiny does not apply and because the Act provides for race-neutral remedies to electoral discrimination. Furthermore, the NYVRA does not violate the U.S. Constitution simply because its protections of the right to vote go beyond those provided by federal law.

i. The NYVRA is a race-neutral anti-discrimination law.

The NYVRA is a race-neutral anti-discrimination statute and therefore does not trigger strict scrutiny. The NYVRA seeks to remedy election systems that "hav[e] the effect of impairing the ability of members of a protected class to elect candidates of their choice or influence the outcome of elections, as a result of vote dilution." N.Y. Elec. Code § 17-206(2)(a). After finding a violation, courts "shall implement appropriate remedies to ensure that voters of race, color, and language-minority groups have *equitable* access to fully participate in the electoral process." *Id*. at (5)(a) (emphasis added). In other words, when a local election system denies *any* racial group an *equal* opportunity to elect their preferred candidates or influence elections, the NYVRA is available to remedy the disparity. Because the NYVRA's guarantee of equal opportunity extends to voters of any race, the law does not distribute benefits or burdens based on race and thus does not trigger strict scrutiny. *See Doe ex rel. Doe v. Lower Merion Sch. Dist.*, 665 F.3d 524, 547 (3d Cir. 2011) ("A racial classification occurs only when an action 'distributes burdens or benefits on the basis of' race.") (quoting *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007)).

State and federal courts have applied this reasoning to uphold the CVRA and WVRA against similar equal protection challenges. *See Higginson v. Becerra*, 786 Fed. Appx. 705, 706-

07 (9th Cir. 2019), *cert. denied* 140 S.Ct. 2807 (2020); *Sanchez*, 145 Cal. App. 4th at 681; *Portugal*, 530 P.3d at 1006. Courts have reviewed the CVRA and WVRA's key provisions and have declined to apply strict scrutiny because the laws, like the NYVRA, do not have the touchtone element of a racial classification: they do not "allocate benefits or burdens on the basis of race." *Sanchez*, 145 Cal. App. 4th at 680; *Higginson*, 786 Fed. App'x at 706-07 (citing *Parents Involved*, 551 U.S. at 720); *Portugal*, 530 P.3d at 1011. Rather, treatment under the SVRAs is based on a protected group's experience of racial discrimination. *See Sanchez*, 145 Cal. App. 4th at 680.

Moreover, while it is true that sometimes even a neutral distribution of burdens or benefits among racial groups may run afoul of the constitution, *see, e.g.*, *Sanchez*, 145 Cal. App. 4th at 680-81 (discussing *Johnson v. California*, 543 U.S. 499, 506 (2005)), courts have found that the CVRA and WVRA "do[] not confer any privilege to any class of citizens," *Portugal*, 530 P.3d at 1011. Instead, they simply provide a means to redress inequitable voting systems. *See id.*; *see also Sanchez*, 145 Cal. App. 4th at 666; *Higginson*, 786 Fed. App'x at 707 (the CVRA is designed "to eliminate racial disparities through race-neutral means") (quoting *Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmtys. Project, Inc.*, 135 S. Ct. 2507, 2524 (2015)). In this way, the CVRA, WVRA, and NYVRA are similar to "other long-standing statutes that create causes of action for racial discrimination," such as the federal Civil Rights Act and the federal Voting Rights Act, *Sanchez*, 145 Cal. App. 4th at 666, 680, and courts have emphasized that the mere awareness of race in these statutes does not trigger strict scrutiny, *see, e.g.*, *Higginson*, 786 Fed. App'x at 707 (citing *Bush v. Vera*, 517 U.S. 952, 958 (1996) (plurality)). The fact that the NYVRA—and virtually every other anti-discrimination statute—must consider race to *identify* racial discrimination does not subject the law to strict scrutiny under the Equal Protection Clause. *See*

Inclusive Cmtys. Project, Inc., 576 U.S. at 545 ("[R]ace may be considered in certain circumstances and in a proper fashion.").

For this reason, the NYVRA's requirement to demonstrate racially polarized voting does not change the fact that the law is facially race neutral. The existence of RPV is a descriptive phenomenon, one that the Legislature has determined is indicative of racially discriminatory vote dilution. Persuasive authority from courts interpreting other SVRAs reinforces this determination. For example, courts have declined to apply strict scrutiny to the CVRA, reasoning that the CVRA's more expansive view of vote dilution and requirement that plaintiffs present evidence of disparate impact through RPV "do not introduce a racial classification" to the statute. *Sanchez*, 145 Cal. App. 4th at 666, 680, 686 (rejecting argument to apply strict scrutiny to CVRA); *see also id*. at 687, 706 (rejecting argument that differences between the CVRA and federal Voting Rights Act render the CVRA unconstitutional); *Higginson*, 786 Fed. App'x at 706-07 (finding that plaintiff failed to allege that the CVRA distributes burdens or benefits on the basis of race). Likewise, the Washington Supreme Court found that the WVRA's consideration of RPV combined with a lack of equal opportunity "does not compel local governments to do anything based on *race*." *Portugal*, 530 P.3d at 1010. The United States Supreme Court denied certiorari challenging both the California and Washington decisions. *See Higginson v. Becerra*, 140 S. Ct. 2807 (2020) (denying cert.); *Gimenez v. Franklin Cnty., Washington*, 144 S. Ct. 1343 (2024) (denying cert.).

Finally, the absence of a threshold compactness requirement for liability under the NYVRA does not render the Act unconstitutional. The *Gingles* preconditions, including the compactness requirement, are not conditions on Section 2's constitutionality but rather elements the Supreme Court has held are required by the federal Voting Rights Act's *text*. *See Gingles*, 478 U.S. at 50 & n.17 (viewing its three preconditions as required by Section 2's text); *see also Bartlett v. Strickland*,

556 U.S. 1, 21 (2009) ("[T]he *Gingles* requirements are preconditions, *consistent with the text and purpose of § 2*, to help courts determine which claims could meet the totality-of-the-circumstances standard *for a § 2 violation.*") (emphases added); *Johnson v. De Grandy*, 512 U.S. 997, 1010 (1994) (noting that the *Gingles* preconditions provided "structure to the statute's 'totality of circumstances' test"). Nothing in the U.S. Constitution sets a 50% plus one threshold, or a geographic compactness requirement, for remedying the effects of past discrimination. Rather, as the Supreme Court has recognized, there is "a significant state interest in eradicating the effects of past racial discrimination," *Shaw v. Reno*, 509 U.S. 630, 656 (1993), and that interest does not have an on-off trigger based upon the presence or absence of a geographically compact 50% plus one minority group in a particular geographic region. This Court, like the courts interpreting the CVRA and WVRA, should resist Defendants' effort to transform *Gingles'* statutory interpretation into a constitutional dogma. *See*, *e.g.*, *Portugal*, 530 P.3d at 1003.

California, Washington, and federal courts have repeatedly held that the CVRA and WVRA are facially race-neutral, that strict scrutiny therefore does not apply to the SVRAs, and that those SVRAs are constitutional, thereby rejecting arguments that are nearly identical to those made by the Town of Mount Pleasant challenging the NYVRA. *Pico*, 534 P.3d at 70, *Higginson*, 786 Fed. App'x at 706-07; *Sanchez*, 145 Cal. App. 4th at 666, 678-83; *Portugal*, 530 P.3d at 1006. This court should likewise hold that the NYVRA is facially race neutral and that strict scrutiny thus does not apply. And, because "[c]uring vote dilution is a legitimate government interest" and the NYVRA is rationally related to that interest, the law easily passes rational basis review just as the CVRA and WVRA did. *See Sanchez*, Cal. App. at 680; *Portugal*, 530 P.3d at 648 ("[W]e hold that Gimenez's equal protection claim triggers only rational basis review, which the WVRA easily

satisfies on its face."); *see also Higginson*, 786 Fed. App'x. at 707 (holding rational basis is the proper standard of review).

ii. The NYVRA does not require race to predominate in any remedy and provides for entirely race-neutral remedies to electoral discrimination.

The NYVRA's remedial provisions underscore both the facial validity of the Act and the Act's validity as applied to Mount Pleasant. As a preliminary matter, Defendants are incorrect in their assertion that "any single-member districting scheme imposed as a result of this action would involve racial predominance." Dkt. 118 at 15. Nowhere in its guidance to courts does the NYVRA mandate that race predominate in the fashioning of a remedy of any kind. *See Sanchez*, 145 Cal. App. 4th at 688 (upholding facial validity of the CVRA because it does not mandate unconstitutional remedies); *Portugal*, 530 P.3d at 1012 ("[T]he WVRA, on its face, does not require unconstitutional actions."). Rather, the statute simply instructs courts to "implement appropriate remedies," which may or may not include switching to a district-based method of election, that "ensure that voters of race, color, and language-minority groups have equitable access to fully participate in the electoral process." N.Y. Elec. Law § 17-206(5)(a). Implementing a remedy that ensures equitable access does not require that race predominate in that system's creation. Indeed, the Supreme Court recently rejected Defendants' assumption, reaffirming that race consciousness in map drawing is not automatically racial predominance. *Allen v. Milligan*, 599 U.S. l, 24, 33, 41 (2023) ("[t]he contention that mapmakers must be entirely 'blind' to race has no footing in our § 2 case law"); *see also Pico*, 15 Cal. 5th at 323, ("[N]othing in the CVRA requires a municipality or a court to select a district-based remedy or, even if it chooses to do so, to draw district lines [relying]. . . 'principally on race.'"). The NYVRA accordingly cannot be read to require the drawing of districts in a manner that "subordinate[s]" traditional redistricting principles to "racial considerations." *Cooper v. Harris*, 137 S. Ct. 1455, 1463-64 (2017).

But even if some jurisdictions could conceivably engage in race-based districting to remedy a violation of the NYVRA, and even if some future applications of the Act might conceivably constitute a racial gerrymander, Defendant's claim that every future application of the NYVRA to remedy an actual or potential violation will not survive constitutional scrutiny has no basis. By its terms, the NYVRA allows jurisdictions and courts to choose from a wide range of remedies beyond district-based elections, including race-blind "alternative method[s] of election." N.Y. Elec. Law. § 17-206(5)(a)(2). It is illogical that a statute that contemplates race-blind remedies can be found unconstitutional on the grounds that it requires racial predominance. For example, considering the possible remedy of an alternative system of election, as the Supreme Court has acknowledged, the adoption of a "system using transferable votes" can "produce proportional results without requiring the division of the electorate into racially segregated districts." *Holder v. Hall*, 512 U.S. 874, 909-10 (1994) (Thomas, J., concurring in the judgment). The flexibility and discretion afforded by the NYVRA's remedial provisions therefore preclude any conclusion that race will inevitably and unconstitutionally predominate in every application of the Act or in the application of the Act to Mount Pleasant. *See United States v. Salerno*, 481 U.S. 739, 745 (1987) (a facial challenge is "the most difficult challenge to mount successfully, since the challenger must establish that no set of circumstances exists under which the Act would be valid").

iii. States are permitted to create protections against discrimination that go beyond federal law.

Defendants' argument that the Legislature did not have the power to adopt the NYVRA lacks merit. *See* Dkt. 118 at 116-17. To the contrary, states have the authority to fashion and adopt anti-discrimination statutes that address the specific needs of their jurisdiction and extend beyond federal law. *Higginson*, 786 Fed. Appx. at 707 (the fact that the CVRA differs from the federal Voting Rights Act does not trigger strict scrutiny because "governments may adopt measures

designed 'to eliminate racial disparities through race-neutral means'") (quoting *Tex. Dep't of Hous. & Cmty. Affairs*, 576 U.S. at 545); *Sanchez*, 145 Cal. App. 4th at 687 ("There is no rule that a state legislature can never extend civil rights beyond what Congress has provided."). Indeed, "States do not derive their [] authority [over election systems] from the Voting Rights Act, but rather from independent provisions of state and federal law." *Voinovich v. Quilter*, 507 U.S. 146, 156 (1992) (internal quotation marks omitted) (citing *Katzenbach v. Morgan*, 384 U.S. 641, 647-648 (1966) ("Under the distribution of powers effected by the Constitution, the States establish qualifications for voting for state officers" and such qualifications are valid unless they violate the Constitution or a federal statute)).

While both the state and federal constitutions provide protections for the right to vote, *Matter of Friedman v. Cuomo*, 39 N.Y. 2d 81, 86 (1976), the New York Constitution "substantially exceed[s] the [U.S. Constitution's] protections," N.Y. Elec. Law § 17-200. In addition to guaranteeing equal protection, freedom of expression, and freedom of association, the New York Constitution affirmatively grants citizens the right to vote, prohibits disenfranchisement, and explicitly prohibits the drawing of dilutive state and federal legislative districts. N.Y. Const. Art. II, § 1 ("Every citizen shall be entitled to vote at every election for all officers elected by the people"); Art. I, § 1 ("No member of this state shall be disfranchised"); Art. III, § 4(c)(1) (requiring the state commission to draw districts that ensure voters have equal opportunities to participate in the political process and elect candidates of choice).

Charged with the mandate to guarantee and vigorously protect voting rights, the Legislature adopted the NYVRA to give line-drawers and courts a clearer and more efficient framework than the federal Voting Rights Act for evaluating and remedying vote dilution. *See, generally*, N.Y. Elec. Law § 17-206. In particular, the Legislature drew on over thirty years of Section 2 jurisprudence

and statistical and factual evidence supporting these decisions to identify the types of evidence that are the most probative of the presence or absence of vote dilution. *See id*. §§ 17-206(2)(c) & (3). In this way, the guidance in the NYVRA is similar in function to the guidance in the 1982 U.S. Senate report factors adopted by the *Gingles* court (Senate Factors): both sets of guidance are designed to help courts assess vote dilution and neither is intended to be an exhaustive list of relevant evidence. *See id*. § 17-206(3); *Gingles*, 478 U.S. at 45-46.

Although the Senate Factors provide courts with flexibility and Section 2 contains broad language, over the years federal courts have cabined their interpretation of Section 2 by adopting a bright line 50% plus one demographic rule as a threshold for liability in part to make nationwide judicial administration of the law more streamlined. *See Bartlett*, 556 U.S. at 17-18. The NYVRA, in contrast, does not include a demographic threshold and does not assume at the merits stage that single-member districts are the only remedy for vote dilution. *Supra* at IV.B.ii. Instead, the NYVRA returns to Section 2's roots by equipping courts with the tools to conduct "an intensely local appraisal of the design and impact of the contested electoral mechanisms as well as the design and impact of the potential alternative electoral system." *Pico*, 534 P.3d at 60 (quoting *Gingles*, 478 U.S. at 79) (internal quotation marks omitted). The focus of the NYVRA is thus on real-world conditions, and the Legislature's decision to focus on the actual conditions of vote dilution fall squarely within its "wide discretion" to enact anti-discrimination laws. *Smith v. Robbins*, 528 U.S. 259, 273 (2000) ("[O]ur established practice, rooted in federalism, [is to] allow[] the States wide discretion, subject to the minimum requirements of the Fourteenth Amendment, to experiment with solutions to difficult problems of policy.").

V. Conclusion

Strict scrutiny does not apply to the NYVRA because the Act is a race-neutral anti-discrimination law, provides for race-neutral remedies, and was passed consistent with New York's authority to create protections against discrimination that go beyond federal law. The similarities between the NYVRA, CVRA, and WVRA—and persuasive authority interpreting the latter two laws—underscore the NYVRA's constitutionality. Because the NYVRA is a constitutional law to which strict scrutiny does not apply, *Amici* urge this Court to reject Defendants' Motion for Summary Judgment.

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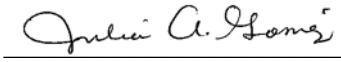
Respectfully submitted,



Julia A. Gomez
ACLU Foundation of Southern California
1313 W 8th Street, #200
Los Angeles, CA 90017
(213) 977-5253

Simone Leeper
Campaign Legal Center
1101 114th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200

Angélica Salceda
ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111
(415) 621-2493