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## May 30 Roundtable Update

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## **NEW YORK REDISTRICTING ROUNDTABLE UPDATE**

### ***Guzman et al v. Westchester County Legislature et al***

On May 25, the parties in the case, (the county, Republican legislators (Cunzio and Nolan), and the Petitioners) submitted a proposed settlement agreement for the court to approve. According to the proposed settlement, the parties want to avoid the time and expense of litigation and worked together in good faith to agree upon certain modifications to the current redistricting plan that they agree will further the redistricting goals set forth in the state constitution and the Municipal Home Rule Law. The Parties agreed that these modifications “would constitute a fair and reasonable resolution of the claims raised by the Petitioners.” Once approved by the court, the county agreed to take all necessary steps to enact this amendment which will modify the district boundaries for Districts 3, 5, 14, 15, and 17. They also agreed that if the legislature fails to enact the amendment, or if the County Executive vetoes it, unless the court grants an extension, this agreement will be null and void and the challenge will be restored. Furthermore, the parties agreed that following this modification, the legislature shall not make any other changes to Districts 3 or 15 at any time before the 2030 Census without the agreement of Cunzio and Nolan (or their successors).

Additionally, the parties agreed that Cunzio and Nolan’s cross-petition and cross-motion challenging the denial of funding from the county for representation and asking the court to disqualify the County Attorney from representing the County Respondents survives and should still be resolved by the court.

On May 26th, the State Supreme Court (in Putnam County, where the case was moved) approved the settlement agreement.

### ***Orleans County: Lewis et al v. Orleans County Legislature et al***

On May 25, in Orleans County State Supreme Court, the County filed its answer to the amended petition. In its answer, the County denied most of Petitioners’ allegations, including the assertions that the county is divided into 7 individual districts and that the lack of a minority voter district is “sad.”

Additionally, the County presented several affirmative defenses, including (1) that the petition fails to state a cause of action upon which relief can be granted; (2) if violations are found, they would have been in good faith, and not willful or malicious; (3) lack of damages; (4) governmental immunity; (5) statutes of limitations; (6) issue and claim preclusion; (7) qualified or absolute immunity; (8) lack of standing; and (9) that the

claims are barred due to Petitioners' failure to comply with requirements of New York General Municipal Law.

The County also requested that the court dismiss the amended petition in its entirety.

Additionally, on the same day, the County filed a memorandum in opposition to the amended petition and in support of its motion for summary judgment.

First, the County argued that, aside from Petitioner Marciano, the other Petitioners lack standing because they do not live in the districts addressed in the petition, and none of the Petitioners claim that they were subject to racial classifications.

Next, the County argued that the structure of the legislature is constitutional and does not violate the one-person, one-vote standard because the populations of the at-large, residency requirement "districts" "have no bearing on the weight of any individual's vote for the at-large members." Additionally, the County contended that residency requirements for legislators elected at large have been deemed constitutional by both the U.S. Supreme Court and the NY Court of Appeals. Furthermore, the County refuted Petitioners' argument that the residency requirements leave certain areas of the county unrepresented as at-large legislators are understood to represent the interests of the entire county.

Next, the County argued that there is no minority vote dilution because Petitioners have not and cannot establish the *Gingles* factors. Additionally, the County asserted that it did not engage in racial gerrymandering by moving part of the Town of Medina from District 2 to District 1 as "there was virtually no change in the racial compositions" of these two districts before and after this redistricting. Further, the County refuted Petitioners' assertion that the County purposefully moved the most racially diverse area of Medina because, the County asserted, the non-white population of Medina is not concentrated in that area but is spread out across the town.

Additionally, the County argued that there is no evidence that it engaged in partisan gerrymandering. And lastly, the County asserted that Petitioners are not entitled to the appointment of a special master or a commission to redraw the districts. The County contended that it "made diligent and good-faith efforts to reapportion its legislative districts" and the plan is compliant with state law and constitutional standards.

## CENSUS

### **Cornell Program on Applied Demographics on New State Data**

The Census Bureau released the Demographic and Housing Characteristics file and Demographic Profiles based on the 2020 Census. Jan Vink at Cornell University' Program on Applied Demographics prepared the following report in Excel workbook formatting. The values in the light blue boxes can be changed through a drop-

down menu. The mapping feature on the “MapRank” tab probably only works in Office 365.

The Cornell Program provides several highlights:

- The median age in New York State was 39.0 in 2020, up 1 year from 2010 (38.0).
- Between 2010 and 2020, the median age in New York State rose 1.3 years for men (36.3 to 37.6) and 1.0 years for women (39.4 to 40.4).
  - Hamilton County remained the oldest county in New York for 2020 with a median age of 57.0 (up from 51.3 in 2010).
  - Still the youngest county in New York State, the median age in Tompkins rose by 1.2 years from 29.8 in 2010 to 31.0 in 2020.
- Of the 604 U.S. counties with over 100,000 population, Tompkins County NY had the 10<sup>th</sup> lowest median age in 2020.
- The old-age dependency ratio in New York State was 20.7 in 2000, 21.1 in 2010, and continued to rise to 26.9 in 2020.
  - Simultaneously, the child dependency ratio continued to decline, going from 39.6 in 2000 to 34.8 in 2010, and reaching 32.4 in 2020.
- The population under 5 in New York declined by 8.2% between 2010 and 2020—slightly less than the national decline of 8.9%.
  - The population in New York aged 65+ grew by 30.2% from 2010 to 2020, while the 85+ population grew by 13%.
- In 2020, New York State had the fourth largest populations of both same-sex married (48,442) and same-sex unmarried couples (35,096) in the country.
  - This was the first Decennial Census to show distinct totals for opposite- and same-sex married and unmarried partner households.
- In 2020, there were about 4.0 million owner-occupied (up from 3.9 million in 2010), 3.8 million renter-occupied (up from 3.4 million in 2010), and 773 thousand vacant housing units (down from 790 thousand in 2010).
- In 2020, New York was the 8<sup>th</sup> most diverse state in the U.S. with a diversity index value of 71%.

The 2020 age distribution can also be compared with age distributions of previous Censuses at:

<https://pad.human.cornell.edu/counties/history2020.cfm>