IN THE SUPREME COURT OF NEW JERSEY
Docket No. 089292

JERSEY CITY UNITED AGAINST THE NEW WARD MAP, *et al.*, *Plaintiffs-Petitioners,* vs. JERSEY CITY WARD COMMISSION, *et al.* *Defendants-Respondents.*	ON PETITION FOR CERTIFICATION FROM THE SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION DOCKET NO.: A-0356-22 CIVIL ACTION Sat Below: Hon. Robert Gilson P.J.A.D. Hon. Patrick DeAlmeida, J.A.D. Hon. Avis Bishop-Thompson, J.A.D.

AMICUS CURIAE BRIEF OF
LEAGUE OF WOMEN VOTERS OF NEW JERSEY

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STATEMENT OF INTEREST OF *AMICUS CURIAE*

Amicus curiae League of Women Voters of New Jersey ("LWVNJ") submits this brief in support of Plaintiff-Appellants and in furtherance of their interest in just representation through fair redistricting.

LWVNJ is the New Jersey chapter of the national League of Women Voters, a nonprofit, nonpartisan, grassroots national voting rights organization working to protect and expand voting rights and ensure everyone is represented in our democracy. LWVNJ is committed to promoting civic engagement and protecting democracy in Hudson County and New Jersey at large through advocacy, voter education, and voter assistance.

LWVNJ leads Fair Districts New Jersey, a broad coalition of organizations that advocates for transparency, public engagement, and a redistricting process that follows nonpartisan criteria to guard against gerrymandering. Fair Districts New Jersey's work advocating for an equitable and community-driven redistricting process led to significant victories during the last redistricting cycle including additional public hearings and releasing of draft maps. Fair Districts New Jersey prioritizes communities of interest and racial equity, and during the 2020 redistricting cycle, submitted legislative and congressional maps that reflected that.

LWVNJ's work educating and empowering New Jersey's voters enables the organization to directly interact with a large population of New Jersey's residents

and to learn about barriers to representation directly from New Jersey's diverse communities. LWVNJ advocates for policies that make it easier for New Jersey residents to vote, particularly residents who have traditionally confronted obstacles to exercising that right.

LWVNJ has successfully advanced equitable voting rights reforms to remove barriers to the ballot and increase voter participation, including online voter registration and automatic voter registration, improved access to vote-by-mail, in-person early voting, and voting rights restoration for people on parole and probation. LWVNJ has led work on fair districting to prevent gerrymandering and to increase the power of New Jersey's diverse communities. LWVNJ also works with state and local election officials to educate voters on how to effectively cast a ballot, runs a voter assistance hotline, and works in collaboration with others to lead election protection work.

LWVNJ has a demonstrated interest in voting rights and redistricting in Hudson County. LWVNJ has approximately 1,600 members, including members and a chapter in Hudson County. This case will directly affect the representation of people in that county.

Because this case addresses an important question related to redistricting and voting rights in Hudson County, its proper resolution is a matter of concern for the League of Women Voters of New Jersey and its members and supporters.

<u>STATEMENT OF FACTS AND PROCEDURAL HISTORY</u>

To avoid needless repetition, LWVNJ incorporates by reference the facts and procedural history in the July 2, 2024 Petition for Acceleration and the April 11, 2024 Petition for Certification to the New Jersey Supreme Court filed by Plaintiffs-Appellants in this matter. *See* Petition for Acceleration at pp. 7-12; Petition for Certification at pp. 4-8.

As required by *R.* 1:13(e), LWVNJ simultaneously files its notice of motion for leave to appear as *amicus curiae*.

PRELIMINARY STATEMENT

The 2022 Jersey City Ward Map (the "Challenged Map") violated the compactness requirement of the New Jersey Constitution, in part by dividing long-standing communities of interest. The Challenged Map unfairly combines citizens from different communities who may not share the same interests on issues like affordable housing and environmental cleanup. The Appellate Division improperly excluded communities of interest from the consideration of its compactness inquiry required by the New Jersey Constitution. For these reasons, LWVNJ respectfully asks that the Court vacate the Appellate Division's limited remand and allow the Plaintiffs to pursue full discovery and present expert testimony as to the statistical measurements and evidence regarding communities of interest affected by the Challenged Map.

ARGUMENT

I. Preserving Communities of Interest Is an Essential Criterion of Redistricting Analyses

Since 1995, the United States Supreme Court has consistently held that keeping communities of interest together is a core redistricting principle. *See, e.g.*, *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 433 (2006) ("While no precise rule has emerged governing § 2 compactness, the 'inquiry should take into account 'traditional districting principles such as maintaining communities of interest and traditional boundaries.''"); *Allen v. Milligan*, 599 U.S. 1, 35 (2023) ("Districting involves myriad considerations—compactness, contiguity, political subdivisions, natural geographic boundaries, county lines, pairing of incumbents, communities of interest, and population equality."); *Bush v. Vera*, 517 U.S. 952, 997 (1996) (Kennedy, J., concurring) (finding that compactness under section 2 of the Voting Rights Act should take into consideration "traditional districting principles such as maintaining communities of interest and traditional boundaries").[1]

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[1] For redistricting purposes, the term "communities of interest" refers to "a contiguous population that shares common economic, social, and cultural interests [that] should be included within a single district for purposes of its effective and fair representation." *Maestas v. Hall*, 274 P.3d 66, 78 (N.M. 2012)

Courts consider "communities of interest" a significant feature of redistricting plans for a myriad of reasons. As an initial matter, communities of interest substantially contribute to effective representation. Indeed, "[s]ocial and economic interests common to the population of an area which are probable subjects of legislative action . . . should be considered in determining whether the area should be included within or excluded from a proposed district in order that all of the citizens of the district might be represented reasonably, fairly, and effectively." Karin MacDonald and Bruce E. Carin, *Symposium Issue: Foxes, Henhouses, and Commissions: Assessing the Nonpartisan Model in Election Administration, Redistricting, and Campaign Finance: Article and Essay: Community of Interest Methodology and Public Testimony*, 3 U.C. Irvine L. Rev. 609, 613 (2013).

As community of interest-based districts "derive[] implicitly from a delegate view of representation," "[i]t is easier for representatives to advocate for constituents who have widely shared attributes and a greater sense of kinship." *Id.* Concentrated communities of interest also "encourage greater civic participation, as voters better understand and identify with districts that align with preexisting local networks and shared affiliations. Keeping communities together yields greater political representation of common interests and concerns." Sandra J. Chen, Samuel S.H. Wang, Bernard Grofman, Richard F. Ober, Jr., Kyle T. Barnes,

and Jonathan R. Cervas, *Turning Communities of Interest Into a Rigorous Standard for Fair Districting,* 18 Stan. J.C.R. & C.L. 101, at *109 (2022).There are varying methods for identifying communities of interest. Communities of interest may be defined as existing government subdivisions and designations such as counties and cities, or—in smaller constituencies—as geographic areas that are accorded special designations by local governments, such as formally recognized ethnic places. Chen et al., *supra*, 18 Stan. J.C.R. & C.L. 101 at 112-13. Communities of interest can also be identified based on demographic data from the Census Bureau that reveals "clusters of individuals with common traits and interest which may constitute [communities of interest]." *Id.* at 114.

Recognizing the significance of communities of interest, federal courts have held that diluting communities of interest with "'differences in socio-economic status, education, employment, health, and other characteristics'–is impermissible." *Robinson v. Ardoin*, 37 F.4th 208, 218 (5th Cir. 2022). *Dillard v. City of Greensboro*, 956 F. Supp. 1576, 1578 (M.D. Ala. 1996), is illustrative. There, a special master was appointed to recommend a redistricting plan that did not violate the Voting Rights Act. In doing so, the special master attempted to define and connect communities of interest "within acknowledged physical boundaries and conformed with the other traditional redistricting principles enumerated by the court." *Id*. at 1580. The Middle District of Alabama approved

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and adopted the redistricting plan. *Id.* at 1582. Similarly, in *Larios v. Cox*, 314 F. Supp. 2d 1357, 1364 (N.D. Ga. 2004), the court approved a plan drawn by a special master that applied state law principles of "compactness, contiguity, minimizing the splits of counties, municipalities, and precincts, and recognizing communities of interest."

Many states also require that mapmakers preserve communities of interest when redistricting. For example, "[t]he state constitutions of Alabama, Alaska, Arizona, Colorado, Hawaii, New York, and Oklahoma require the preservation of communities of interest in redistricting," while "[s]tate statutes in California, Hawaii, Idaho, Maine, Massachusetts, Michigan, Oregon, South Dakota, Utah, Vermont, Washington, West Virginia, and Wisconsin require the same." Glenn D. Magpantay, *A Shield Becomes a Sword: Defining and Deploying a Constitutional Theory for Communities of Interest in Political Redistricting*, 25 Barry L. Rev. 1, *7-8 (2020). Moreover, state redistricting guidelines developed by appointed panels and committees "in Arkansas, Georgia, Kansas, Kentucky, Minnesota, Mississippi, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Virginia, and Wyoming also require the preservation of communities of interest in redistricting, be it state legislative or congressional redistricting." *Id.*

In sum, the compactness analysis must include a consideration of communities of interest. *See, e.g.*, *Wilson v. Eu*, 823 P.2d 545, 574-75 (Ca. 1992);

In re Reapportionment of Towns of Hartland, Windsor & W. Windsor, 624 A.2d

323, 330 (Vt. 1993); *Parella v. Montalbano*, 899 A.2d 1226, 1233 (R.I. 2006); *In*

re Colo. Indep. Legislative Redistricting Comm'n, 513 P.3d 352, 364 (Colo. 2021).

II. Many Courts Use Compactness to Determine if a Redistricting Map Has Maintained Communities of Interest

The highest courts in states with constitutional provisions analogous to the

New Jersey provisions at issue here consider communities of interest as

intertwined with compactness. In doing so, these courts recognize that properly

compact districts enhance the ability of these communities of interest to advocate

for themselves in elections and otherwise.

By way of example, the Supreme Court of California has held that

"[c]ompactness does not refer to geometric shapes but to the ability of citizens to

relate to each other and their representatives and to the ability of representatives to

relate effectively to their constituency. Further, it speaks to relationships that are

facilitated by shared interests and by membership in a political community,

including a county or city." *Wilson*, 823 P.2d at 574-75 (internal quotations

removed).

Similarly, the Supreme Court of Vermont held that "nonnumerical criteria"

such as "compact and contiguous territories[] and the preservation of communities

with common interests—are not only important but are related to one another in

that they share the common purpose of assuring more effective representation." *In*

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re Reapportionment, 624 A.2d at 330. "Voters in a community are less effectively represented when their elected representative's principal constituency lies outside their community and has interests different from their own." *Id.* The court explained that elected representatives' relationships with their constituencies "are fostered through shared interests and membership in a political community" but "are undermined . . . when geographic barriers that severely limit communication and transportation within proposed districts are ignored." *Id.* at 330-31.

Several other state supreme courts are in accord. Thus, the Supreme Court of Rhode Island has held that compactness constitutes more than geography and that the existence of communities of interest is an important factor to consider in evaluating whether a locality is properly compact. *See Parella*, 899 A. 2d at 1233; *Parella v. Irons*, No. 02-4578, 2003 R.I. Super. LEXIS 126, at *66 (Super. Ct. Oct. 8, 2003). The Supreme Court of Colorado has also recognized the relationship between compactness and communities of interest. *See In re Colorado*, 513 P.3d at 364 ("The goal of [compactness] is to 'promote 'fair and effective representation' by implicitly recognizing that the more densely located a representative's constituents, the easier it is to travel across and to physically engage with the district." (quoting *Hall v. Moreno*, 270 P.3d 961, 972 (Colo. 2012))).

In sum, many state and federal courts, in analyzing analogous compactness requirements to those at issue here, consistently look to whether communities of interest are maintained. The Court here should follow the guidance and analysis developed by these other courts.

III. Defendants' Map Creates Non-Compact Wards That Improperly Divide Communities of Interest

The Challenged Map improperly breaks apart historic communities of interest. The effect of the map on the Lafayette neighborhood in Jersey City starkly demonstrates the problem. Lafayette is a former industrial community comprised largely of Black working class families and requires remediation from toxic materials. Complaint ¶¶ 65-66. Given these demographics and circumstances, it is no surprise that the neighborhood's primary concerns include affordable housing and environmental cleanup. *Id.* ¶ 65. By way of example, residents of Lafayette have advocated for a brownfield redevelopment program to assist with needed cleanup and remediation. *Id.* ¶ 66. The Lafayette community also voted largely as a block to elect their council man, whose campaign centered on affordable housing. *Id.* ¶ 67.

Prior to the Challenged Map, the Lafayette neighborhood was unified in Ward F. This kept a community of interest together as one powerful political bloc. The Challenged Map redraws the boundaries of Ward F, adding more affluent white and Asian people who may not share the same interests as Lafayette

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residents and therefore diluting the neighborhood's political power. Compl. ¶ 69.

As a result, the map undermines the neighborhood's collective efforts to remove

toxic materials from their neighborhood, *id.* ¶ 66, as well as to continue to elect

council people who share their interests in affordable housing.

In creating non-compact wards, the Challenged Map also breaks apart other

communities of interest, as follows:

- Splitting the neighborhood of Paulus Hook in half, removing some of its residents from Ward E to Ward F. *Id.* ¶70. Among other things, Paulus Hook "consists primarily and overwhelmingly of brownstones and small townhouses" and combined a piece of it with an area "of predominantly new high rise apartments and commercial buildings such as the Goldman Sachs building." *Id.*

- Adding into Ward F people from the Van Vorst Park neighborhood, which included parts of the downtown area that includes "a significant amount of high rise residential housing" though Ward F previously did "not have any of this kind of high rise housing." *Id.* ¶71.

- Splitting the historic neighborhoods of McGinley Square (peeling off residents from Ward F to put into Ward B) and Greenville (removing more residents of Ward F into Ward A). *Id.* ¶¶ 72-73.

- Splitting the Newport neighborhood, moving Ward E residents to Ward D. This changed the character and diluted communities of interest within Ward D—"which has been associated with the Heights — an older neighborhood with very limited new construction and without high rise apartments"—by combining it with a neighborhood filled with "virtually all new construction into high rise apartments." *Id.* ¶ 74.

Thus, the very redistricting decisions in the Challenged Map that defeat

compactness also break apart communities of interest, improperly diluting the

political power of these communities.

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CONCLUSION

Long-standing United States Supreme Court precedent establishes that the preservation of communities of interest is a key redistricting principle. Additionally, many state courts have recognized that communities of interest and the redistricting principle of compactness are intertwined, and that where districts are more compact, communities of interest are better protected. In this case, the Challenged Map creates non-compact wards that tear apart communities of interest, creating an impermissible gerrymander. LWVNJ therefore requests that Question One be answered in the affirmative.

Respectfully submitted,

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