To commence the statutory time for appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF WESTCHESTER**

----------X

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.

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**INDEX NO. 55442/2024**

**DECISION/ORDER**
**Motion Seq. 9 and 10**



**EVERETT, J.**

Upon consideration of the papers filed in the New York State Courts Electronic Filing System (NYSCEF) Doc Nos. 192-209, relative to the motion by plaintiffs to reargue (CPLR 2221 [d]) and renew (CPLR 2221 [e]) this Court's order dated April 11, 2025, to the extent that the Order denied plaintiffs' motion for summary judgment (motion #9), and the motion by Order to Show Cause of New York State Assemblymember Latrice Walker and Senator Zellnor Myrie (Walker/Myrie) for leave to file an amicus curiae brief (motion #10), the Court determines as follows:

Decision

The motion for leave to file the amicus curiae brief is granted (motion #10). Plaintiff's motion to reargue and renew is denied (motion #9).

Filing of Amicus Curiae Brief (Motion #10)

Background and Arguments

It is preliminarily noted that by correspondence filed in NYSCEF (Doc No. 209), plaintiffs consented to the filing of the amicus curiae brief and advised they would not be filing a reply to defendants' opposition (NYSCEF Doc No. 203).

In a memorandum of law in support of motion #10 (NYSCEF Doc No. 200), the attorney for Walker/Myrie explains this "case presents an important question regarding the interpretation of the John R. Lewis Voting Rights Act of New York ("NYVRA"): What is the proper standard for demonstrating the existence of racially polarized voting under Election Law § 17-206 (2) (b) (i) (A)?"



The attorney for Walker/Myrie contends that the Court's interpretation that the proper standard is to demonstrate "a divergence in the electoral choices of eligible" voters from the protected class from the choices of all other voters, rather than from the choices of the majority group, "would undermine the intent behind the NYVRA and increase the risk of the suppression of minority voters"; that the brief "explains that the NYVRA was intended to be interpreted such that a plaintiff must demonstrate simply a divergence in the electoral choices of the protected group from the choices of the majority group"; that Walker/Myrie "were responsible for drafting, sponsoring, and ultimately securing the passage of the NYVRA in the legislature and therefore have firsthand knowledge of the legislative intent behind the NYVRA"; that this is a matter of public importance; and that "acceptance of the proposed amicus brief would not 'substantially prejudice the rights of the parties'."

The proposed brief (NYSCEF Doc No. 199) concludes:

> The purpose of the NYVRA is to provide expansive protection for New Yorkers' right to vote. As Senator Myrie explained when the law was passed, it was designed to be the "strongest voter protection law of any state in the country." Press Release, Senate Majority to Pass the John R. Lewis Voting Rights Act of New York (May 31, 2022). It would defy logic to therefore interpret the bill, as this Court has, to make it more difficult to prove vote dilution than under federal law. The NYVRA was drafted with the understanding, and intent, that any claim for vote dilution would consider the majority's ability to vote as a bloc to defeat the minority's preferred candidate—plain and simple.

In a memorandum of law in opposition (NYSCEF Doc No. 203), defendants argue that the brief is plaintiffs' "obvious attempt to backdoor additional evidence regarding legislative intent to support their argument—already rejected by this Court—regarding the proper standard for determining the existence of racially polarized voting under the NYVRA"; that the brief "inappropriately seeks to submit new testimony and evidence regarding the Legislature's intent in enacting the NYVRA and the meaning of the unambiguous term 'racially polarized voting' in that statute," which would be prejudicial to defendants; that the brief seeks to "rehash issues already argued, or that could have been argued during summary judgment"; that "post-enactment statements by individual legislators is not probative evidence of legislative intent in any event"; and that plaintiffs and Walker/Myrie "will have another opportunity to address the appropriate standard for determining racially polarized voting at any trial."



In a reply memorandum of law (NYSEF Doc No. 208), the attorney for Walker/Myrie argues that "amicus briefs should be permitted when the *amici* assist the parties in providing a 'full and adequate presentation of the relevant issues,' 'identify law or arguments that might otherwise escape the court's consideration or would otherwise be of assistance to the court,' and/or 'the case involves questions of important public interest'"; that Walker/Myrie "seek to offer the Court their insight into the legislative history to ensure that there is a full presentation of the purpose of the

John R. Lewis New York Voting Rights Act (NYVRA) in this matter of public importance"; and that the Court remains free to give the brief whatever weight it deems appropriate.

Amicus Curiae Brief

In *Columbus Monument Corp. v City of Syracuse* (73 Misc 3d 967, 969, 971 [Sup Ct, Onondaga County]), the Court notes that the CPLR does not set a standard for allowing amicus briefs, and "'[i]n cases involving questions of important public interest leave is generally granted to file as amicus curiae' (*Kruger v Bloomberg*, 1 Misc 3d 192, 196 [Sup Ct, NY County 2003])." The Court explained:

> Factors to be considered on whether to permit the filing of amicus curiae briefs include:
> "(1) whether the applications were timely; (2) whether each application states the movant's interest in the matter and includes the proposed brief; (3) whether the parties are capable of a full and adequate presentation of the relevant issues and, if not, whether the proposed amici could remedy this deficiency; (4) whether the proposed briefs identify law or arguments that might otherwise escape the court's consideration or would otherwise be of assistance to the court; (5) whether consideration of the proposed amicus briefs would substantially prejudice the parties; and (6) whether the case involves questions of important public interest" (*Anschutz Exploration Corp. v Town of Dryden*, 35 Misc 3d 450, 454 [Sup Ct, Tompkins County 2012], *citing Kruger*).



Conclusion

Here, the Court considered the factors, particularly that the interpretation of the NYVRA is of public interest. Since the Court can give the brief whatever weight it deems appropriate in its determination of motion # 9, there is no substantial prejudice to defendants. Thus, the Court grants leave to Walker/Myrie to file its brief and will consider the brief in its determination of motion #9.

Plaintiff's Motion to Reargue (CPLR 2221 [d]) and Renew (CPLR 2221 [e]) – (Motion #9)

In a memorandum of law in support (NYSCEF Doc No. 193), plaintiffs' attorney asserts that the issue is whether the Court misapprehended "the proper standard for demonstrating the

existence of racially polarized voting under Election Law § 17-206 (2) (b) (i) (A); and that "the recent decision of the Appellate Division, Second Department, in *Clarke v. Town of Newburgh*, 237 A.D.3d 14 (2d Dep't 2025), clarified the law in this regard sufficiently that leave to renew is appropriate and, upon renewal, summary judgment should be granted to Plaintiffs."

Plaintiffs' attorney explains the following:

> The existence of racially polarized voting is one of the two ways Plaintiffs can prove that the at-large election system used in the Town of Mount Pleasant (the "Town" or "Mount Pleasant") impermissibly dilutes the votes of Hispanic voters in violation of the New York Voting Rights Act ("NYVRA"). If racially polarized voting exists and the other statutory requirements for liability are met, the statute requires that the Town modify its electoral system.
> The statute defines "racially polarized voting" as "voting in which there is a divergence in the candidate, political preferences, or electoral choice of members in a protected class from the candidates, or electoral choices of the rest of the electorate." Election Law § 17-204(b). In its summary judgment decision, the Court held that in order to demonstrate racially polarized voting Plaintiffs were required to demonstrate "a divergence in the electoral choices of eligible Hispanic voters" from the choices of "non-Hispanic voters of all races and ethnicities," NYSCEF DOC No. 183 ("Decision") at 9, rather than from the choices of the majority group. Plaintiffs submit that this construction of the definition of racially polarized voting differs from (i) the clear legislative intent as recently explicated in *Clarke v. Town of Newburgh*, 237 A.D.3d 14 (2d Dep't 2025); (ii) the construction of the identical language in the California and Washington state voting rights acts by the courts of those states; (iii) all federal precedent applying the Federal Voting Rights Act; and (iv) Defendants' experts' own understanding of the law. The correct interpretation, as admitted by Defendants' experts, and recognized by the California and Washington state courts, as well as all federal precedent, is that, under these circumstances, Plaintiffs must demonstrate a divergence between the choices of Hispanic voters and non-Hispanic White voters, not "non-Hispanic voters of all races and ethnicities."



Plaintiffs' attorney argues that the "Court misapprehended the legal standard for demonstrating racially polarized voting under § 17-206 (2) (b) (i) (A) and the Appellate Division's decision in *Clarke v. Town of Newburgh* 'clarifi[ed] the decisional law'"; and that "racially polarized voting is established by comparing the political preferences of members of the protected

class against the preferences of the majority group, not the preferences of everyone else in the electorate."

With respect to analyzing the NYVRA, plaintiffs' attorney asserts that the Courts' interpretation of § 17-206 (2) (b) (i) (A) should conform with the intent of the Legislature, which was "that the New York Voting Rights Act be construed to expand voting rights relative to the federal Voting Rights Act"; that first looking at the language of the statute "the text of § 17-206(2)(b)(i)(A) (and the NYVRA as a whole) is ambiguous with respect to the precise standard for demonstrating racially polarized voting," which necessitates that the Court should "look to the structure of the statute as a whole and to legislative history" and the "fundamental rule of statutory interpretation that of two constructions which might be placed upon an ambiguous statute one which would cause objectionable consequences is to be avoided"; and that the Legislative intent is "to protect voters of a protected class from vote dilution by expanding upon the protections available under the federal Voting Rights Act ("federal VRA")" and construe the NYVRA "to make it easier for protected class members to establish that their votes are being diluted under the NYVRA as compared to the federal VRA" by requiring "that Plaintiffs show a divergence between the 'electoral choices' of 'eligible Hispanic voters' and voters of the majority group (in this case, non-Hispanic White voters), not between the electoral choices of 'eligible Hispanic voters' from the choices of "non-Hispanic voters of all races and ethnicities.' "



With respect to voter dilution, plaintiffs' attorney notes that the interpretation of the vote dilution provisions of the NYVRA and the similar federal, California, and Washington statutes that "racially polarized voting is assessed by comparing voting patterns of a protected class and the majority group"; that "this Court's interpretation of Election Law § 17-206 (2) (b) (i) (A) would make vote dilution liability harder to establish under the NVYRA than under the federal Voting

Rights Act (and California and Washington's laws)"; that the voting behavior of other minority voters is irrelevant, and the focus should be on whether protected class voters have an equal opportunity to participate in the political process, or "if protected class voters lack an equal opportunity compared with majority voters to elect their candidates of choice, then Section 2 is violated whether non-protected class minority voters prefer the same (or different) candidates as protected class voters"; that under "this Court's definition of racially polarized voting, members of a protected class cannot prevail without demonstrating that their political preferences diverge from the preferences of non-protected class minority voters, even if the votes of the non-protected voters have no effect on the ability of protected class voters to elect their candidates of choice"; that this Court's test for demonstrating racially polarized voting threatens to leave minority communities experiencing vote dilution without recourse under the NYVRA because imposing "an additional and unnecessary burden on plaintiffs, is plainly inconsistent with legislative intent."

Regarding the evidence presented in the prior motion, plaintiffs' attorney asserts that the evidence "exclusively addressed the divergence between the political preferences of Hispanic and non-Hispanic white voters"; that "Defendants, like Plaintiffs, assumed that the settled test for racially polarized voting used by every other state and federal court applying similar statutes would apply here"; that upon this Court correcting its misapprehension of the standard for proving racially polarized voting, plaintiffs should be awarded summary judgment because, as this Court noted, "Plaintiffs have presented 'strong statistical evidence demonstrating a divergence in the electoral choices of eligible Hispanic voters from non-Hispanic White voters.' "; that "a plaintiff may prove vote dilution based on racially polarized voting without also demonstrating impairment of their voting power under the totality of the circumstances"; and that plaintiffs' evidence "that there are a variety of alternatives to Mount Pleasant's current at-large system, is sufficient to

establish liability." Plaintiff's attorney notes the need for the parties have "clarity regarding the proper standard for proving racially polarized voting before this case goes to trial."

In the memorandum of law in opposition (NYSCEF Doc No 195), defendants' attorney argues that there is nothing new, nothing this Court misapprehended or overlooked, and the Court was aware of the decision in *Clarke v Newburgh* (237 AD3d 14 [2d Dept 2025]; *Clarke*); that the NYVRA is unambiguous and "racially polarized voting as defined by the NYVRA's text requires a divergence between Hispanic voters ' 'from the rest of the electorate' as required by the statute, meaning non-Hispanic voters of all races and ethnicities' "; and that even using plaintiffs' standard, there are "issues of fact requiring denial of summary judgment, including whether racially polarized voting has been demonstrated even under Plaintiffs' standard, and whether Plaintiffs have proven an alternative election system that will more likely elect a Hispanic preferred candidate when compared to the current at-large system."

Defendants' attorney contends that the Court rejected the standard that the "NYVRA requires them only to show a divergence in the voting preferences of Hispanic voters (i.e., the protected class at issue) and non-Hispanic White voters (who Plaintiffs contend are the "majority group") and instead "cited the plain text of the definition of racially-polarized voting requiring a 'divergence in the candidate, political preferences, or electoral choice of members in a protected class from the … choice of *the rest of the electorate*' " (emphasis in quote; Election Law § 17-204 [6]), which is not limited to just White voters; and that the Court previously rejected plaintiffs' arguments: "(1) legislative intent; (2) decisions from other courts applying the federal VRA and/or state VRAs from California and Washington; (3) a policy argument that the Court's interpretation of §17-204 (6) makes it harder to prove vote-dilution; and (4) a claim that all parties' evidence presupposed Plaintiffs' interpretation was correct."

With respect to reargument, defendants' attorney asserts that plaintiffs repackaging of the arguments, or presenting arguments that could have been previously made, is insufficient to warrant reargument; and that plaintiffs had a full and fair opportunity "to present any and all reasons in support of their statutory interpretation of the definition of racially polarized voting during the extensive briefing on the cross-motions for summary judgment."

With respect to renewal, defendants' attorney asserts that the Court was aware of and considered the *Clarke* decision, which "does not address the statutory interpretation question Plaintiffs raise, and that decision does not compel the Court to interpret 'rest of the electorate' in N.Y. Elec. Law §§ 17-204 [6] and 17-206 [2] [b] [i] [A] to mean, in this case, only 'White voters'"; and that *Clarke* is not a change of clarification of the law sufficient to support renewal.

Substantively, defendants' attorney contends that it is not for the Court to re-write the statute; that "Racially polarized voting requires a 'divergence' in the choices of 'members in a protected class' from 'the rest of the electorate' (N.Y. Elec. Law § 17-204[6])"; that the protected class consists of Hispanic voters, and the " 'rest of the electorate' as required by the statute [means] non-Hispanic voters of all races and ethnicities"; that the NYVRA differs from other voting right statutes and interpretations including *Thornburg v Gingles* (478 U.S. 30 [1986]), California, and Washington; that "unlike in California and Washington, the NYVRA's vote-dilution framework is disjunctive, allowing vote-dilution claims against at-large systems where there is either a showing of 'racially polarized' voting patterns or a showing that 'under the totality of the circumstances, the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections is impaired' (N.Y. Elec. Law § 17-206[2][b][i][A]-[B])"; that "the voting behavior of other minority groups can be highly relevant"; that *Clarke* found the NYVRA permits 'non-district based remedies, such as ranked-choice voting, cumulative voting,

limited voting, and the elimination of staggered terms' (*Id.* at 26)"; and that plaintiffs failed to meet the "rest of the electorate" standard "where between 20-40% of white voters and an unknown number of members of other racial groups have the same political preferences as the Hispanic community in the Town of Mount Pleasant."

With respect to summary judgment, defendants' attorney notes that even if plaintiffs' standard is adopted, there are issues of fact, including "whether there is sufficient white crossover voting that might permit Hispanic preferred candidates to win in future elections is a disputed issue of fact—especially if Town elections move to even years" and plaintiffs "must still prove an alternative election system that would more likely elect Hispanic preferred candidates when compared to the at-large system."

In reply (NYSCEF Doc No. 196), plaintiffs' attorney asserts that defendants previously argued NYVRA is ambiguous; that "some of the NYVRA's provisions have ambiguity that requires judicial construction to harmonize the text, structure, and purpose of the statute"; and that "the Legislature did not intend to radically depart from the standard for racially polarized voting used in laws that the NYVRA 'builds upon.'"

With respect to reargument, plaintiffs' attorney contends that reargument is appropriate "where an important question of first impression initially received scant attention because other threshold questions took precedence, and where there is reason to believe the Court's answer to the question was in error"; that *Clarke*, which was decided after the summary judgment briefing, clarifies "that courts should look to the 'very similar laws enacted in California and Washington' that the NYVRA is 'modeled after' when interpreting the statute's vote dilution provisions. *Clarke*, 237 A.D.3d at 22"; that summary judgment should be awarded to plaintiffs as there is strong statistical evidence demonstrating a divergence in the electoral choices of eligible Hispanic voters

from non-Hispanic White voters; that "the phrase 'rest of the electorate' must surely have the same meaning when used in the California and Washington VRAs, the 'very similar laws' that the NYVRA is 'modeled after.' *Clarke*, 237 A.D.3d at 22"; that "vote dilution plaintiffs must 'show that 'vote dilution' has occurred and that there is an alternative practice that would allow the minority group to 'have equitable access to fully participate in the electoral process.'' *Clarke*, 237 A.D.3d at 39"; and that the Legislature choosing "to use the same language as the California and Washington VRAs to define the same concept is compelling evidence that the Legislature intended to adopt the same standard for demonstrating the existence of racially polarized voting."

Plaintiffs' attorney notes that "Defendants fault Plaintiffs for not 'put[ting] forward actual evidence that it is impossible for them to show the voting behavior of other groups,'" however "Plaintiffs have argued that the Court's new standard for racially polarized voting makes vote dilution cases harder to prove, not impossible"; that under defendants' standard, plaintiffs will be "penalized because they are proximate to other minority groups who may themselves be experiencing vote dilution"; that this "will undermine the NYVRA's effectiveness in identifying and deterring vote dilution, contrary to the Legislature's clear intent; and that the Court should not adhere to a "wooden application of … literal language [that] would lead to an absurd conclusion" but give meaning to the legislative intent.

Plaintiffs' attorney adds that the standard issue was barely addressed in the prior motion; that defendants' argument in the prior motion was that NYVRA's vote dilution provisions were incoherent and meaningless; that in this motion defendants now take the inconsistent position that that Election Law § 17-204 (6) has an unambiguous and obvious meaning; that the "lack of fulsome briefing is likely the 'reason' this Court 'mistakenly arrived at its earlier decision' and justifies granting reargument"; that defendants hired experts, Dr. Lisa Handley and Dr. Jeffrey Lewis, to

investigate plaintiffs' NYVRA claims and each report examined the degree to which Hispanic and Non-Hispanic white voters support different candidates in elections; that decisions from other courts regarding voting rights acts are persuasive as indicated in *Clarke* (at 25-26), which draws comparisons between the NYVRA and the California and Washington VRAs; that while this Court's decision cites *Clarke*, "it does not engage with decisions from California and Washington courts interpreting and applying the exact same language used in Election Law § 17-204 (6)"; and that if the standard advocated by plaintiffs is used, summary judgment is warranted "based on the strong evidence of racially polarized voting combined with the evidence that there are a number of alternative practices that would remedy the dilutive effects of the existing system."



Reargue (CPLR 2221 [d]) – Standard

In *Hallett v City of New York* (219 AD3d 809, 810 [2d Dept 2023]), the Court explained:

> A motion for leave to reargue "shall be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion, but shall not include any matters of fact not offered on the prior motion" (CPLR 2221 [d] [2]). "Motions for reargument are addressed to the sound discretion of the court which decided the prior motion and may be granted upon a showing that the court overlooked or misapprehended the facts or law or for some other reason mistakenly arrived at its earlier decision" (*Peretz v Zhenjun Xu*, 205 AD3d 746, 747 [(2d Dept) 2022] [internal quotation marks omitted]). However, "[a] motion for leave to reargue is not designed to provide an unsuccessful party with successive opportunities to reargue issues previously decided or to present arguments different from those originally presented" (*Flanagan v Delaney*, 194 AD3d 694, 698 [(2d Dept) 2021]; *see Williams v Abiomed, Inc.*, 173 AD3d 1115, 1116 [(2d Dept) 2019]).

(*See Emigrant Bank v Kaufman*, 223 AD3d 650, 651-652 [2d Dept 2024]; *V. Veeraswamy Realty v Yenom Corp.*, 71 AD3d 874 [2d Dept 2010]; *Woody's Lbr. Co., Inc. v Jayram Realty Corp.*, 30 AD3d 590, 593 [2d Dept 2006].)

Renew (CPLR 2221 [e]) - Standard

A motion for leave to renew is addressed to this Court's sound discretion (*see Jian Feng Zhang v Roman*, 186 AD3d 1625, 1626 [2d Dept 2020]; *Robinson v Viani*, 140 AD3d 845, 848 [2d Dept 2016]). It must be based on new facts not offered on the prior motion that would change the prior determination and must contain reasonable justification for the failure to present these facts on the prior motion (*see* 2221 [e]; *Flanagan v Delaney*, 194 AD3d 694, 696 [2d Dept 2021]; *Jian Feng Zhang v Roman*, 186 AD3d at 1626). As stated in *Krobath v South Nassau Communities Hosp.* (178 AD3d 810, 811 [2d Dept 2019]): "A motion for leave to renew is not a second chance freely given to a party who has not exercised due diligence in making its first factual presentation (*see U.S. Bank N.A. v Ahmed*, 174 AD3d 661, 665 [(2d Dept) 2019]; *Okumus v Living Room Steak House, Inc.*, 112 AD3d 799, 800 [(2d Dept) 2013])." Even when purported new facts are stated, they may not change a prior determination (*Deutsche Bank Natl. Trust Co. v Wilkins*, 97 AD3d 527, 529 [2d Dept 2012]). A new legal argument is not a basis for a motion to renew (*see Verizon N.Y., Inc. v Supervisors of Town of N. Hempstead*, 169 AD3d 740, 743 [2d Dept 2019]; *Matter of Kadish v Colombo*, 121 AD2d 722 [2d Dept 1986]). (*See Deutsche Bank Natl. Trust Co. v Cincu*, 228 AD3d 825, 826-827 [2d Dept 2024]; *Dinallo v DAL Elec.*, 60 AD3d 620, 621 [2d Dept 2009].)



Interpretation of a Statute

The Court in *Matter of Bliss v Village of Southampton Bd. of Architectural Review & Historic Preserv.* (236 AD3d 1017, 1018 [2d Dept 2025]) explained:

> [C]ourts should construe clear and unambiguous statutory language as to give effect to the plain meaning of the words used" (*Matter of Better World Real Estate Group v New York City Dept. of Fin.*, 122 AD3d at 35).
> "It is fundamental that a court, in interpreting a statute, should attempt to effectuate the intent of the Legislature," and "the clearest indicator of legislative intent is the statutory text" (*Matter of Sapphire W. [Kenneth L.]*, 237 AD3d 41, 47 [2025] [citation and internal quotation marks omitted]). However, "[a]n examination of the

> legislative history is proper 'where the language is ambiguous or where a literal construction would lead to absurd or unreasonable consequences that are contrary to the purpose of the enactment' " (*Saul v Cahan*, 153 AD3d 951, 952 [2017], quoting *Matter of Auerbach v Board of Educ. of City School Dist. of City of N.Y.*, 86 NY2d 198, 204 [1995]).
> "Indeed, any statute or regulation . . . must be interpreted and enforced in a reasonable . . . manner in accordance with its manifest intent and purpose" (*Matter of Sapphire W. [Kenneth L.]*, 237 AD3d at 48 [alterations and internal quotation marks omitted]).

(*See Feinman v County of Nassau*, 154 AD3d 739, 740-741 [2d Dept 2017].)

Courts are "not to legislate under the guise of interpretation (*see, People v Heine*, 9 NY2d 925, 929; *see also, Bright Homes v Wright*, 8 NY2d 157, 162)" (*People v Finnegan*, 85 NY2d 53, 58 [1995]). In relation to its statutory interpretation, the Court in *People v Hernandez* (43 NY3d 591, 597 [2025]) instructed: "We cannot avoid the deliberate legislative choice made here by accepting defendant's invitation to rewrite the statute's reference.... There is no ambiguity in the text requiring resort to legislative history or interpretive aids for statutory construction (*see Matter of Walsh v New York State Comptroller*, 34 NY3d 520, 524 [2019]). Nor may we manufacture an ambiguity in the service of a preferred policy goal (citation omitted)."



Conclusion

While a basis for plaintiffs' motion to reargue and renew is the NYVRA standard to be applied in making determinations, the Court included in its list of issues to be resolved "whether plaintiffs apply the wrong racially polarization standard." The statutory language in the NYVRA is clear and unambiguous. Therefore, the statute must be construed to give effect to the plain meaning of the words used. It is up to the Legislature to enact statutes that put its intent into effect. Allowing the Courts to usurp that power is a slippery slope. If the Legislature wants NYVRA, which states "the rest of the electorate" to be interpreted narrowly, and only mean "the majority

group," as indicated in the Walker/Myrie amicus brief, then the Legislature needs to make its intention clear in the words used in the statute.

Thus, plaintiffs' motion for leave to reargue is not based "upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion." Rather, the Court reviewed the issue and determined that the standard set forth in its prior Decision and Order is based on the language of the statute. Similarly, plaintiffs' motion for leave to renew is not based on new facts not offered on the prior motion that would change the prior determination.

The remaining contentions do not require a different result.

Accordingly, it is,

ORDERED that the motion (#10) by New York State Assemblymember Latrice Walker and Senator Zellnor Myrie for leave to file an amicus curiae brief is granted; and it is further

ORDERED that plaintiffs' motion (#9) for leave to reargue is denied; and it is further

ORDERED that plaintiffs' motion (#9) for leave to renew is denied; and it is further

ORDERED that this action shall continue in the trail assignment part for a prompt trial.

The foregoing constitutes the Decision and Order of the Court.



Dated: White Plains, New York
December 4, 2025

ENTER:

HON. DAVID F. EVERETT, J.S.C.

Filed in NYSCEF