

SUPREME COURT OF THE STATE OF NEW
YORK COUNTY OF WESTCHESTER

SERGIO SERRATTO, ANTHONY AGUIRRE, IDA
MICHAEL, KATHLEEN SIGUENZA, SILVANA
TAPIA

Plaintiffs,

- against -

TOWN OF MOUNT PLEASANT and TOWN BOARD
OF THE TOWN OF MOUNT PLEASANT,

Defendants.

Index No. 55442/2024

Date Summons Filed: 1/9/2024

**DEFENDANTS' ANSWER
AND AFFIRMATIVE
DEFENSES**

Defendants Town of Mount Pleasant (the "Town") and Town Board of the Town of Mount Pleasant (collectively, the "Defendants") by and through their undersigned counsel, hereby answer the Complaint filed by Sergio Serratto, Anthony Aguirre, Ida Michael, Kathleen Siguenza, and Silvana Tapia ("Plaintiffs"). Except as specifically admitted, Defendants deny the allegations contained in the Complaint including, without limitation, the Table of Contents, headings, subheadings and footnotes contained within the Complaint.

1. Defendants admit that Paragraph 1 of the Complaint purports to describe Plaintiffs' claims. Defendants otherwise deny the allegations contained in Paragraph 1 of the Complaint.

2. Paragraph 2 of the Complaint states only legal conclusions to which no response is required or appropriate.

3. Defendants admit that that the Town has an at-large voting system and that Plaintiffs reference an Emergency Order issued on May 26, 2023, which speaks for itself. Defendants deny the remaining allegations in Paragraph 3 of the Complaint.

4. Defendants admit that Plaintiffs reference reports prepared by Dr. Lisa Handley and Jeffrey Wice and that those reports speak for themselves. Defendants further admit that the Town

has not presently made any changes to its at-large voting system. Defendants deny any remaining allegations in Paragraph 4 of the Complaint.

5. Defendants deny the allegations contained in Paragraph 5 of the Complaint.
6. Defendants admit the allegations contains in Paragraph 6 of the Complaint.
7. Defendants admit the allegations contained in Paragraph 7 of the Complaint.
8. Defendants admit the allegations contained in Paragraph 8 of the Complaint.
9. Defendants admit the allegations contained in Paragraph 9 of the Complaint.
10. Defendants admit that the Town's population has risen in the last two decades and that as of the 2020 Census, the Town's population was reported to be 44,471. Defendants deny any remaining allegations in Paragraph 10 of the Complaint.

11. Defendants admit that as of the 2020 Census, the Hispanic population in the Town was reported to be 19.1 %. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 11 of the Complaint, and, on that basis, deny them.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint, and, on that basis, deny them.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint, and, on that basis, deny them.

14. To the extent the allegations in Paragraph 14 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 14 of the Complaint, and, on that basis, deny them.

15. To the extent the allegations in Paragraph 15 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny that the Town's electoral system denies Hispanic voters the opportunity to elect candidates of their choice to the Town Board and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 15 of the Complaint, and, on that basis, deny them.

16. Defendants admit that Republican candidates for Town Board are ultimately selected by the Mount Pleasant Republican Committee, although those who seek candidacy are not limited to the Committee. Defendants deny the remaining allegations contained in Paragraph 16 of the Complaint.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Complaint, and, on that basis, deny them.

18. Defendants admit that Rene Leon and Paul Alvarez were elected to the Boards of Trustees of the Village of Sleepy Hollow and the Village of Pleasantville, respectively. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 18 of the Complaint, and, on that basis, deny them.

19. Defendants admit that the Town recently declared a state of emergency based upon an Order issued on May 26, 2023, which speaks for itself. Defendants deny the remaining allegations contained in Paragraph 19 of the Complaint.

20. Defendants deny that members of the Hispanic community are unable to elect candidates of their choice and are denied an equal opportunity to elect candidates of their choice compared to the white majority. Defendants lack knowledge or information sufficient to form a

belief as to the truth of the remaining allegations contained in Paragraph 20 of the Complaint, and, on that basis, deny them.

21. To the extent the allegations in Paragraph 21 of the Complaint state only legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 21 of the Complaint.

22. Defendants deny the allegations in Paragraph 22 of the Complaint.

23. To the extent the allegations in Paragraph 23 of the Complaint state only legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny that Plaintiffs are entitled to any remedy and otherwise deny the allegations contained in Paragraph 23 of the Complaint.

24. Defendants deny that Plaintiffs are entitled to any remedy under the NYVRA and therefore deny the allegations in Paragraph 24 of the Complaint.

25. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Complaint, and, on that basis, deny them.

26. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of the Complaint, and, on that basis, deny them.

27. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the Complaint, and, on that basis, deny them.

28. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the Complaint, and, on that basis, deny them.

29. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of the Complaint, and, on that basis, deny them.

30. To the extent the allegations in Paragraph 30 of the Complaint state legal conclusions, no response is required or appropriate. But upon information and belief, Defendants admit that this Court has jurisdiction over the claims asserted in this case.

31. To the extent the allegations in Paragraph 31 of the Complaint state legal conclusions, no response is required or appropriate. But upon information and belief, Defendants admit that venue is proper in Westchester County.

32. Defendants admit the allegations in Paragraph 32 of the Complaint to the extent that the most recent census refers to the 2020 census.

33. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of the Complaint, and, on that basis, deny them.

34. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of the Complaint, and, on that basis, deny them.

35. Defendants admit the allegations contained in Paragraph 35 of the Complaint.

36. Defendants admit the allegations contained in Paragraph 36 of the Complaint.

37. Defendants admit the allegations contained in Paragraph 37 of the Complaint.

38. Defendants admit the allegations contained in Paragraph 38 of the Complaint.

39. Defendants deny the allegations contained in Paragraph 39 of the Complaint.

40. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 40 of the Complaint, and, on that basis, deny them.

41. Paragraph 41 of the Complaint states only legal conclusions to which no response is required or appropriate.

42. Paragraph 42 of the Complaint states only legal conclusions to which no response is required or appropriate.

43. Paragraph 43 of the Complaint states only legal conclusions to which no response is required or appropriate.

44. Paragraph 44 of the Complaint states only legal conclusions to which no response is required or appropriate.

45. Defendants admit the factual allegations in Paragraph 45 of the Complaint.

46. To the extent the allegations in Paragraph 46 of the Complaint state legal conclusions, no response is required or appropriate. Defendants otherwise admit the allegations contained in Paragraph 46 of the Complaint.

47. Paragraph 47 of the Complaint states only legal conclusions to which no response is required or appropriate.

48. Paragraph 48 of the Complaint states only legal conclusions to which no response is required or appropriate.

49. Paragraph 49 of the Complaint states only legal conclusions to which no response is required or appropriate.

50. Paragraph 50 of the Complaint states only legal conclusions to which no response is required or appropriate.

51. Paragraph 51 of the Complaint states only legal conclusions to which no response is required or appropriate.

52. Paragraph 52 of the Complaint states only legal conclusions to which no response is required or appropriate.

53. Paragraph 53 of the Complaint states only legal conclusions to which no response is required or appropriate.

54. Paragraph 54 of the Complaint states only legal conclusions to which no response is required or appropriate.

55. Paragraph 55 of the Complaint states only legal conclusions to which no response is required or appropriate.

56. Paragraph 56 of the Complaint states only legal conclusions to which no response is required or appropriate.

57. Defendants admit the allegations in Paragraph 57 of the Complaint.

58. Defendants admit that the Town Board held a meeting on August 25, 2023, and that Plaintiffs reference the Town Board's resolution, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 58 of the Complaint.

59. Defendants admit that the Plaintiffs reference the Town Board's resolution, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 59 of the Complaint.

60. Defendants admit that the Plaintiffs reference the Town Board's resolution, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 60 of the Complaint.

61. Defendants admit that the Plaintiffs reference the Town Board's resolution, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 61 of the Complaint.

62. Paragraph 62 of the Complaint states only legal conclusions to which no response is required or appropriate.

63. Defendants admit that the Town Attorney received the Handley and Wice reports on November 10, 2023.

64. Defendants admit that the Plaintiffs reference the Town Board's notices for public hearings to be held on November 16, 2023, and November 20, 2023, which speak for themselves. Defendants otherwise deny the remaining allegations contained in Paragraph 64 of the Complaint.

65. Defendants admit that the Plaintiffs reference the report of Jeffrey M. Wice, which speaks for itself.

66. Defendants admit that the Plaintiffs reference the report of Dr. Lisa Handley, which speaks for itself.

67. Defendants state that the report of Dr. Handley speaks for itself, and deny the allegations of Paragraph 67 to the extent inconsistent with the report.

68. Defendants state that the report of Dr. Handley speaks for itself, and deny the allegations of Paragraph 68 to the extent inconsistent with the report.

69. Defendants state that the report of Dr. Handley speaks for itself, and deny the allegations of Paragraph 69 to the extent inconsistent with the report.

70. Defendants state that the report of Mr. Wice speaks for itself, and deny the allegations of Paragraph 70 to the extent inconsistent with the report.

71. Defendants state that the report of Mr. Wice speaks for itself, and deny the allegations of Paragraph 71 to the extent inconsistent with the report.

72. Defendants admit that the Plaintiffs reference the reports of Mr. Wice and Dr. Lisa Handley, which speak for themselves. Defendants otherwise deny the remaining allegations contained in Paragraph 72 of the Complaint.

73. Defendants deny the allegations contained in Paragraph 73 of the Complaint.

74. Defendants state that recordings of the public hearings are publicly available and speak for themselves. Defendants otherwise deny the allegations contained in Paragraph 74 of the Complaint.

75. Defendants admit that more than 90 days have elapsed since August 25, 2023.

76. Defendants admit that the Town Board has not changed its electoral system, but otherwise deny the remaining allegations contained in Paragraph 76 of the Complaint.

77. To the extent the allegations in Paragraph 77 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 77 of the Complaint.

78. Defendants admit that the Plaintiffs reference the reports of Jeffrey M. Wice and Dr. Lisa Handley, which speak for themselves and deny the allegations of Paragraph 78 to the extent inconsistent with the report.

79. Defendants state that the report of Mr. Wice speaks for itself, and deny the allegations of Paragraph 79 to the extent inconsistent with the report.

80. Defendants state that the report of Dr. Handley speaks for itself, and deny the allegations of Paragraph 80 to the extent inconsistent with the report.

81. Defendants state that the report of Mr. Wice speaks for itself, and deny the allegations of Paragraph 81 to the extent inconsistent with the report.

82. Defendants deny the allegations contained in Paragraph 82 of the Complaint.

83. To the extent the allegations in Paragraph 83 of the Complaint state only legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 83 of the Complaint.

84. Defendants deny the allegations in paragraph 84 of the Complaint.

85. Paragraph 85 of the Complaint states only legal conclusions to which no response is required or appropriate.

86. Paragraph 86 of the Complaint states only legal conclusions to which no response is required or appropriate.

87. Defendants deny the allegations contained in Paragraph 87 of the Complaint.

88. Defendants deny the allegations contained in Paragraph 88 of the Complaint.

89. Defendants admit that Plaintiffs reference an Emergency Order issued on May 26, 2023, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 89 of the Complaint.

90. Defendants admit the allegations contained in Paragraph 90 of the Complaint.

91. Defendants admit that Plaintiffs reference an Emergency Order issued on May 26, 2023, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 91 of the Complaint.

92. Defendants admit that Plaintiffs reference an Emergency Order issued on May 26, 2023, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 92 of the Complaint.

93. Defendants admit that Plaintiffs reference an Emergency Order issued on May 26, 2023, which speaks for itself.

94. Defendants admit that Plaintiffs reference an Emergency Order issued on May 26, 2023, which speaks for itself.

95. Defendants deny the allegations contained in Paragraph 95 of the Complaint.

96. Defendants deny the allegations contained in Paragraph 96 of the Complaint.

97. Defendants admit that Plaintiffs reference a press release issued on October 28, 2023, which speaks for itself. Defendants otherwise deny the allegations contained in Paragraph 97 of the Complaint.

98. Defendants admit that Plaintiffs reference a press release issued on October 28, 2023, which speaks for itself.

99. Defendants admit that Plaintiffs reference a press release issued on November 3, 2023, which speaks for itself.

100. Defendants state that recordings of the public hearings are publicly available and speak for themselves. Defendants otherwise deny the allegations contained in Paragraph 100 of the Complaint.

101. Defendants admit that Plaintiffs reference a third-party media publication published on November 17, 2023, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 101 of the Complaint.

102. Defendants admit that Mark Saracino was elected on the Republican line in the 2023 Town Board election and that Plaintiffs reference a recording of a public hearing held on November 20, 2023, which speaks for itself. Defendants deny the remaining allegations contained in Paragraph 102 of the Complaint.

103. Defendants admit that Plaintiffs reference a recording of a public hearing held on November 20, 2023, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 103 of the Complaint.

104. Defendants deny the allegations contained in Paragraph 104 of the Complaint.

105. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 105 of the Complaint, and, on that basis, deny them.

106. To the extent the allegations in Paragraph 106 of the Complaint state only legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 106 of the Complaint.

107. Defendants deny the allegations contained in Paragraph 107 of the Complaint.

108. Defendants deny the allegations contained in Paragraph 108 of the Complaint.

109. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 109 of the Complaint, and, on that basis, deny them.

110. Defendants admit the allegations contained in Paragraph 110 of the Complaint.

111. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 111 of the Complaint and, on that basis, deny them.

112. Defendants admit that Carl Fulgenzi is a member of the Mount Pleasant Republican Committee. Defendants deny the remaining allegations contained in Paragraph 112 of the Complaint.

113. Defendants deny the allegations contained in Paragraph 113 of the Complaint.

114. Defendants deny the allegations contained in Paragraph 114 of the Complaint.

115. Defendants deny the allegations contained in Paragraph 115 of the Complaint.

116. Defendants deny the allegations contained in Paragraph 116 of the Complaint.

117. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 117 of the Complaint, and, on that basis, deny them.

118. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 118 of the Complaint, and, on that basis, deny them.

119. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 119 of the Complaint, and, on that basis, deny them.

120. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 120 of the Complaint, and, on that basis, deny them.

121. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 121 of the Complaint, and, on that basis, deny them.

122. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 122 of the Complaint, and, on that basis, deny them.

123. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 123 of the Complaint, and, on that basis, deny them.

124. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 124 of the Complaint, and, on that basis, deny them.

125. Defendants deny the allegations contained in Paragraph 125 of the Complaint.

126. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 126 of the Complaint, and, on that basis, deny them.

127. Defendants admit that information concerning public events in the Town is disseminated through the Town's website. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 127 of the Complaint, and, on that basis, deny them.

128. Defendants admit the allegations contained in Paragraph 128 of the Complaint.

129. Defendants deny the allegations contained in Paragraph 129 of the Complaint.

130. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 130 of the Complaint, and, on that basis, deny them.

131. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 131 of the Complaint, and, on that basis, deny them.

132. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 132 of the Complaint, and, on that basis, deny them.

133. Defendants admit that Plaintiffs reference a mailer from the Town of Mount Pleasant Republican Committee in connection with the 2023 Town Board election, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 133 of the Complaint.

134. Defendants admit that Plaintiffs reference a Facebook post shared by the Town of Mount Pleasant Republican Committee in connection with the 2023 Town Board election, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 134 of the Complaint.

135. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 135 of the Complaint, and, on that basis, deny them.

136. Defendants admit that Plaintiffs reference a Facebook post dated March 9, 2023, which speaks for itself. Defendants otherwise deny the remaining allegations contained in Paragraph 136 of the Complaint.

137. Defendants deny the allegations contained in Paragraph 137 of the Complaint.

138. Defendants deny the allegations contained in Paragraph 138 of the Complaint.

139. Defendants deny the allegations contained in Paragraph 139 of the Complaint.

140. Defendants deny the allegations contained in Paragraph 140 of the Complaint.

141. Defendants admit that Plaintiffs reference the recording of a public hearing held on November 20, 2023, which speaks for itself. Defendants deny the accuracy of the statements made by Former Sleepy Hollow Mayor Ken Wray. Defendants lack knowledge or information

sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 141 of the Complaint, and, on that basis, deny them.

142. Defendants admit that Plaintiffs reference the recording of a public hearing held on November 20, 2023, which speaks for itself. Defendants otherwise deny the allegations contained in Paragraph 142 of the Complaint and deny the accuracy of the statements made by Former Sleepy Hollow Mayor Ken Wray.

143. Defendants deny the allegations contained in Paragraph 143 of the Complaint.

144. Defendants deny the allegations contained in Paragraph 144 of the Complaint.

145. Defendants deny the allegations contained in Paragraph 145 of the Complaint.

146. Defendants deny the allegations contained in Paragraph 146 of the Complaint.

147. Paragraph 147 of the Complaint states only legal conclusions to which no response is required or appropriate.

148. Defendants deny the allegations contained in Paragraph 148 of the Complaint.

149. Defendants deny the allegations contained in Paragraph 149 of the Complaint.

150. Defendants admit that Plaintiffs reference the Town Board's resolution and the reports of Mr. Wice and Dr. Lisa Handley, which speaks for themselves. Defendants otherwise deny the remaining allegations contained in Paragraph 150 of the Complaint.

151. Defendants deny the allegations contained in Paragraph 151 of the Complaint.

152. Paragraph 152 of the Complaint states only legal conclusions to which no response is required or appropriate.

153. Paragraph 153 of the Complaint states only legal conclusions to which no response is required or appropriate.

154. Defendants deny that the current electoral system results in any vote dilution, that Plaintiffs are entitled to any remedy, and otherwise deny the allegations in Paragraph 154 of the Complaint.

155. Defendants deny that the current electoral system results in any disenfranchisement of Hispanic voters and deny that Plaintiffs are entitled to any remedy. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 155 of the Complaint, and, on that basis, deny them.

156. Defendants deny that the current electoral system violates the NYVRA, deny that Plaintiffs are entitled to any remedy, and otherwise deny the allegations contained in Paragraph 156 of the Complaint.

157. Paragraph 157 of the Complaint states only legal conclusions to which no response is required or appropriate.

158. To the extent the allegations in Paragraph 158 of the Complaint states only legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 158 of the Complaint.

159. Defendants deny the allegations contained in Paragraph 159 of the Complaint.

160. Defendants admit the allegations contained in Paragraph 160 of the Complaint.

161. Defendants admit the allegations contained in Paragraph 161 of the Complaint.

162. To the extent the allegations in Paragraph 162 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 162 of the Complaint.

163. To the extent the allegations in Paragraph 163 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 163 of the Complaint.

164. To the extent the allegations in Paragraph 164 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 164 of the Complaint.

165. Defendants deny the allegations in Paragraph 165 of the Complaint.

166. Defendants repeat and reallege each and every response set forth in the foregoing Paragraphs as if fully set forth herein.

167. Paragraph 167 of the Complaint states only legal conclusions to which no response is required or appropriate.

168. Paragraph 168 of the Complaint states only legal conclusions to which no response is required or appropriate.

169. Paragraph 169 of the Complaint states only legal conclusions to which no response is required or appropriate.

170. Paragraph 170 of the Complaint states only legal conclusions to which no response is required or appropriate. To the extent a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 170 of the Complaint, and, on that basis, deny them.

171. To the extent the allegations in Paragraph 171 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 171 of the Complaint.

172. To the extent the allegations in Paragraph 172 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 172 of the Complaint.

173. To the extent the allegations in Paragraph 173 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 173 of the Complaint.

174. Defendants repeat and reallege each and every response set forth in the foregoing Paragraphs as if fully set forth herein.

175. Paragraph 175 of the Complaint states only legal conclusions to which no response is required or appropriate.

176. Paragraph 176 of the Complaint states only legal conclusions to which no response is required or appropriate.

177. Defendants admit the allegations contained in Paragraph 177 of the Complaint.

178. Paragraph 178 of the Complaint states only legal conclusions to which no response is required or appropriate. To the extent a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 178 of the Complaint, and, on that basis, deny them.

179. To the extent the allegations in Paragraph 179 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 179 of the Complaint.

180. To the extent the allegations in Paragraph 180 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 180 of the Complaint.

181. To the extent the allegations in Paragraph 181 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 181 of the Complaint.

182. To the extent the allegations in Paragraph 182 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 182 of the Complaint.

183. Defendants repeat and reallege each and every response set forth in the foregoing Paragraphs as if fully set forth herein.

184. Paragraph 184 of the Complaint states only legal conclusions to which no response is required or appropriate.

185. Defendants admit the allegations contained in Paragraph 185 of the Complaint.

186. To the extent the allegations in Paragraph 186 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 186 of the Complaint.

187. To the extent the allegations in Paragraph 187 of the Complaint state legal conclusions, no response is required or appropriate. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 187 of the Complaint.

DEFENSES

Pursuant to New York Rules of Civil Procedure 3018(b), Defendants, without waiver limitation or prejudice, and without conceding that they bear the burden of proof or production, hereby assert the following defenses:

FIRST AFFIRMATIVE DEFENSE

The complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Voting in Town elections is equally open to participation by members of a class of eligible voters protected by Election Law § 17-204(5) (hereafter, “protected classes”).

THIRD AFFIRMATIVE DEFENSE

Members of protected classes have the same opportunity as other members of the electorate to participated in Town elections.

FOURTH AFFIRMATIVE DEFENSE

All voters, including members of protected classes are able to elect their preferred representatives.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs’ claims are barred in whole or in part because the NYVRA, on its face and as-applied to this case, violates the Fourteenth and Fifteenth Amendments to the United States Constitution by purporting to compel the State and its political subdivisions to deny to its residents the equal protection of the laws, and by requiring the State and its political subdivision to abridge or deny the right to vote of its citizens on account of race, color, or previous condition of servitude.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs’ claims are barred in whole or in part because the federal Voting Rights Act of 1965, as amended (the “VRA”), is an Act of Congress implementing the Fourteenth and Fifteenth Amendments to the United States Constitution and preempts contrary state laws, including the NYVRA. Plaintiffs’ claims employ the NYVRA and purport to compel States and political subdivisions to engage in race-based state action in circumstances where the VRA does not.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because NY Election Law § 17-206 compels race-based state action not authorized or supported by an act of Congress enforcing the Fourteenth or Fifteenth Amendments, in violation of the Equal Protection Clause of Article I, Section 11 of the New York Constitution, and the Fourteenth and Fifteenth Amendments to the United States Constitution.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because the NYVRA violates the Equal Protection Clause of Article I, Section 11 of the New York State Constitution.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because the NYVRA violates the Due Process Clause of the 14th amendment of the United States Constitution and Article I, Section 6 of the New York State Constitution by stripping all legal defenses to racial polarization, depriving Defendants of substantive due process.

TENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because there is no legally significant racially polarized voting in the Town of Mount Pleasant.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because Plaintiffs' requested remedies violate the 14th amendment of the United States Constitution by the impermissible use of race.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because Plaintiffs' requested remedies violate the 15th amendment of the United States Constitution by the impermissible use of race.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because Plaintiffs' requested remedies violate the Federal Voting Rights Act.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because the enactment of Senate Bill S3505B has rendered this action moot.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because they have failed to join an indispensable party.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because Plaintiffs cannot show that they have suffered a redressable voting injury traceable to any act or omission of Defendants.

PRAYER FOR RELIEF

WHEREFORE, Defendants request the necessary and appropriate relief be awarded by this Court, including, but not limited to:

1. Denying Plaintiffs' claims for relief in every respect;
 2. Award Defendants all costs and fees, including attorneys' fees, associated with this action;
- and
3. Any other and/or further relief that this Court deems just and proper.

Dated: New York, New York

January 29, 2024

BAKER & HOSTETLER LLP

By: /s/ Christina O. Gotsis

Christina O. Gotsis
cgotsis@bakerlaw.com
45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200

Mark E. Braden*
mbraden@bakerlaw.com
1050 Connecticut Ave NW # 1100,
Washington, DC 20036
Telephone: (202) 861-1500

Robert J. Tucker*
rtucker@bakerlaw.com
200 S Civic Center Dr,
Columbus, OH 43215
Telephone: (614) 228-1541

** Pro hac vice admission forthcoming*

*Counsel for Defendants Town of Mount Pleasant and
Town Board of Mount Pleasant*

TO:

Abrams & Fensterman, LLP
Robert A. Spolzino, Esq.
81 Main Street, Suite 400
White Plains, NY 10601
(914) 607-7010

*Attorneys for Plaintiffs Sergio
Serratto, Anthony Aguirre, Ida
Michael, Kathleen Siguenza,
and Silvana Tapia*

VERIFICATION

STATE OF NEW YORK)

ss.:

COUNTY OF WESTCHESTER)

CARL FULGENZI being duly sworn, deposes and says that he is the Town Supervisor for the Town Board of Mount Pleasant, Defendant in this action, and that the foregoing Answer is true and to his knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters he believes it to be true.

CARL FULGENZI

Sworn before me this 29 day of January, 2024.

Notary Public

EMILY COSTANZA
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01CO6439640
Qualified in Westchester County
Commission Expires August 23, 2026

RETRIEVED FROM DEMOCRACY PROCKET.COM