

NYSCEF DOC. NO. 157

*Admitted to practice before:*

All New York State Courts  
U.S. Supreme Court and Tax Court  
U.S. Court of Appeals, Second Circuit  
U.S. District and Bankruptcy Courts, WDNY

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*Practice focused upon:*

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Hon. Paul B. Wojtaszek  
Part 16 - Second Floor  
25 Delaware Avenue  
Buffalo, NY 14202

RE: Young v Cheektowaga - NYVRA - 803989/2024  
NYVRA Safe Harbor - Second Department Decision

Dear Judge Wojtaszek:

I write to inform the Court of an opinion issued with regard to the safe harbor provision of the NYVRA by the Appellate Division Second Department in Clark v. Newburgh (Orange County Sup. Ct. Index No. EF002460-2024). The opinion is attached.

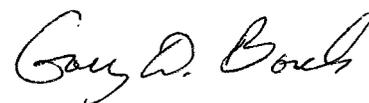
The second department affirmed the decision of the trial court which had held that the resolution passed by the town of Newburgh was not a compliant New York Voting Right Act (NYVRA) resolution for purposes of invoking the safe harbor provisions of the NYVRA because:

1. it did not affirm an intention to enact and implement a remedy for a potential violation of the NYVRA;
2. It did not specify steps to facilitate approval and implementation of a remedy under the NYVRA; and
3. it did not contain a schedule for enacting and implementing a remedy under the NYVRA.

The opinion of the Second Department on the NYVRA safe harbor provision is relevant to Defendant Town of Cheektowaga's claim that it had enacted a compliant NYVRA resolution giving the town protection of the safe harbor provision.

Because the Second Department's opinion is the only appellate authority on the interpretation of the safe harbor provision of the NYVRA it is binding on this courtroom respect to that issue.

Respectfully submitted,



Gary D. Borek