

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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.

Index No. 55442/2024

Hon. David F. Everett

**DEFENDANTS' STATEMENT  
OF MATERIAL FACTS**

Defendants Town of Mount Pleasant and Town Board of the Town of Mount Pleasant respectfully submit the following statement of material facts:

A. The Town of Mount Pleasant

1. Established in 1788, the Town of Mount Pleasant is a municipal government governed by a five-member board that includes four board members and the Town Supervisor (*see* Town Law §§ 24, 52, 60).

2. The Town includes the incorporated villages of Pleasantville, Sleepy Hollow, and a small portion of Briarcliff Manor. The remaining area of the Town is unincorporated and includes the hamlets of Hawthorne, Thornwood, Valhalla, and Pocantico Hills (*see About Mount Pleasant, Town of Mount Pleasant, <https://www.mtpleasantny.com/291/About-Mount-Pleasant>* [last visited Aug. 9, 2024]).

3. The Town Board is the legislative, appropriating, governing and policy determining body of the Town (*see Elected & Appointed Officials, Town of Mount Pleasant, <https://www.mtpleasantny.com/299/Elected-Appointed-Officials>* [last visited Aug. 9, 2024]). But, under state law, the Town Board has virtually no authority within the villages (Town Law § 60 [stating that the law empowering town boards “is not intended to extend the power of said boards

or officers within the limits of any incorporated village or city, or in any manner to abridge or interfere with the power and authority of the officers of any such village or city within its corporate limits, except as otherwise provided by law”).

4. Each of the three villages within the Town has their own local government, including an elected board of trustees and administrative municipal offices (*see Villages in the Town of Mount Pleasant*, Town of Mount Pleasant, <https://www.mtpleasantny.com/335/Villages-in-the-Town-of-Mount-Pleasant> [last visited Aug. 9, 2024]; *see also* Serratto Dep. 318:9-320:5; Aguirre Dep. 83:12-89:21; Michael Dep. 124:2-11).

5. These villages “have their own police, recreation, highway, water, and building departments, tax assessors, clerks’ offices, and justice courts, which are separate and apart from” the Town, and the villages collect separate taxes for these services (*Villages in the Town of Mount Pleasant*, Town of Mount Pleasant, <https://www.mtpleasantny.com/335/Villages-in-the-Town-of-Mount-Pleasant> [last visited Aug. 9, 2024]).

6. The villages collect separate taxes to cover the municipal services that they provide (*id.*).

7. As of the 2020 Census, 19.1% of the Town’s population of 44,436 (including the villages) was reported to be Hispanic (*see* Quick Facts: *Mount Pleasant town, Westchester County, New York*, U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/mountpleasant-townwestchestercountynewyork,US/POP010220> [last visited Aug. 13, 2024]). The majority of this population lies within the Village of Sleepy Hollow: according to the 2020 Census, 5,280 residents of the Village of Sleepy Hollow are Latino or Hispanic (*see Sleepy Hollow village, New York, U.S. Census Bureau,*

[https://data.census.gov/table/DECENNIALDHC2020.P9?g=060XX00US3611949011\\_160XX00US3667638](https://data.census.gov/table/DECENNIALDHC2020.P9?g=060XX00US3611949011_160XX00US3667638) [last visited Aug. 13, 2024]).

B. Election Timing

8. The Town conducts elections to its board and supervisor positions at-large (Town Law §§ 24, 52).

9. Elections for the Town Board have been held in November of odd-numbered years (Town Law § 80).

10. In December 2023, the New York Legislature amended Town Law § 80 to move all town elections statewide to November of even-numbered years (2023 McKinney's Sess Law News of NY, ch 741, §§ 1, 7 [A. 4282-B] [Dec. 22, 2023]).

11. Voting patterns in odd-numbered years differ from those in even-numbered years (*see* Handley Rep. 5; Lewis Rep. 20-21, 24-25; Velez Rep. 6; DeFord Rep. 5).

12. There is no evidence that Hispanic-preferred candidates will lose contests in the Town in November of even-numbered years. In the only recent even year election for Town Board, the Hispanic preferred candidate won (Velez Rep. 6; DeFord Rep. 5; Lewis Rep. 24-25).

13. Moreover, Democratic candidates have been nearly universally successful in even year contests in the Town (Lewis Rep. 20-21).

C. Plaintiffs

14. Plaintiffs are four Hispanic residents of the Town (Michael Dep. 8:23-24; Aguirre Dep. 12:3-4; Serratto Dep. 13:11-13; Siguenza Dep. 11:13-14).

15. Plaintiffs did not affirmatively seek to become plaintiffs in this case—they were introduced to Plaintiffs' counsel David Imamura via mutual friends (Siguenza Dep. 23:14-25:13; Serratto Dep. 41:23-42:3, 44:9-45:4; Aguirre Dep. 22:13-23:19).

16. Prior to being contacted about becoming a plaintiff in this case, Plaintiffs Michael and Siguenza had no concerns with the Town's at-large election system (Siguenza 23:14-25:13, 29:6-10; Michael Dep. 27:10).

17. Similarly, Plaintiff Aguirre could not recall any concerns with the Town's at-large election system before he was contacted about becoming a plaintiff (Aguirre Dep. 27:20-23).

18. While Plaintiff Serratto testified he had concerns with the Town's at-large system before this action, he never shared his concerns with anyone on the Town Board or in the Mount Pleasant government (Serratto Dep. 76:13-77:5).

19. Plaintiff Aguirre is a registered Republican (Aguirre Dep. 42:9-13).

20. Plaintiff Aguirre has never voted in a Town Board election, and he did not have a preferred candidate in the 2023 Town Board or Town Supervisor elections (*id.* at 35:8-23, 39:14-18). He does not even know who the candidates were or who won those elections (*id.* at 35:24-36:5).

21. Plaintiff Aguirre does not know who the current Town Board members are, whether any Town Board members represent his interests, or whether any of them are his candidate of choice (*id.* at 97:14-23).

22. Plaintiff Aguirre testified that he may not vote in future Town Board elections (*id.* at 39:18-23, 40:10-17).

23. Plaintiff Siguenza could not identify, either at her deposition or in written discovery responses, her preferred candidate in any Town Board election (*see* Plaintiff Siguenza's Responses to Defendants' First Discovery Requests at 9-13; Siguenza Dep. 39:19-42:19).

24. Plaintiff Siguenza does not recall if she voted in the most recent Town Board election in 2023 or who the candidates were (Siguenza Dep. 42:10-19). In all these elections, Plaintiff Siguenza did not know whether her candidates of choice won (*id.* at 41:5-10, 42:2-19).

25. Plaintiff Michael admitted she does not know whether any Town Board members are her candidate of choice or represent her interests (Michael Dep. 136:4-15). She does not know who she voted for in the 2017, 2019, or 2021 Town elections or whether her candidates of choice prevailed (*id.* at 41:15-21, 42:13-44:6; Plaintiff Michael's Responses to Defendants' First Discovery Requests at 8-9).

26. While Plaintiff Michael voted in the 2023 Town Board election, she did not vote in the Town Supervisor election (Plaintiff Michael's Responses to Defendants' First Discovery Requests at 8).

D. Voting Patterns

27. Non-Hispanic voters in the Town support candidates preferred by Hispanic voters at high rates. In the 2019 town-justice election and 2021 supervisor election, nearly 40% of non-Hispanic voters supported the Hispanic-preferred candidates (Handley Rep. 3, 5).

28. In the 2015, 2019, and 2021 Town Board elections, nearly 20% of non-Hispanic voters supported Hispanic-preferred candidates (*id.* at 5).

29. In the 2018 Town Board election, the Hispanic-preferred candidate won with over 55% of the vote, which is not possible without high levels of support from non-Hispanic voters (*see id.*).

30. Hispanic residents in the Town are "composed of many subgroups with differing national origins, diversity of political and social views, times of arrival in this country, and generational differences within and between subgroups" (Critchlow Rep. 3).

31. They are also “economically, educationally, by origin of country, and politically diverse” (*id.* at 5). Scholars predict that Hispanic voting behavior will be divided between the parties (*id.*).

32. There is no evidence analyzing the differing voting patterns among various groups within the “Hispanic community” in the Town. For example, Ecuadorians and Dominicans are the two largest subgroups within the Town’s “Hispanic community,” but there is no evidence Ecuadorians in the Town vote the same as Dominicans (*see id.* at 7-8, Table 1).

E. The Totality of the Circumstances

33. There is no evidence establishing a history of actual discrimination *in* the Town (*see, e.g.*, Sandoval-Strausz Rep. 8-18 [no mention of any incidents in the Town of Mount Pleasant]).

34. There is no evidence that white residents contribute to political campaigns at higher rates than Hispanic residents in the Town (*see id.* at 23-24 [no statistics specific to the Town of Mount Pleasant]).

35. There is no evidence showing that Hispanics are excluded from processes determining which groups of candidates receive access to the ballot, financial support, or other support in a given election (*see id.* at 23).

36. There are Hispanic residents on both the Mount Pleasant Republican Committee and the Mount Pleasant Democratic Committee (Serratto Dep. 234:19-25; Smalley Dep. 86:17-25).

37. Hispanic candidates can be nominated to the Town Board (Serratto Dep. 232:8-234:25, 238:16-19).

38. There is no evidence of voting practices that may enhance the alleged dilutive effects of the at-large system. Plaintiffs have never been prohibited from voting or contributing to political campaigns, and they have no evidence that Hispanics residents have been prohibited from engaging in any political activity (*see, e.g., id.* at 101:12-17, 288:6-11, 270:18-271:13; Aguirre Dep. 40:18-41:8, 57:2-8, 58:2-9; Siguenza Dep. 43:13-15, 77:17-78:2; Michael Dep. 47:17-48:2, 83:6-10, 84:12-17).

39. Since 1788, there is minimal evidence of incidents in the Town that Plaintiffs deem a racial appeal, and they are interwoven with a policy question of unlawful immigration on which reasonable minds differ (*see* Sandoval-Strausz Rep. 35-37).

40. Outside of one statement about this litigation, there is no evidence that the Town Board is unresponsive to the needs of Hispanic residents (*see id.* at 39-40).

41. Plaintiffs have never voiced any concerns to the Town Board outside of this litigation (*see* Serratto Dep. 185:5-9, 167:10-17; Aguirre Dep. 78:10-79:6; Siguenza Dep. 108:6-14, 110:2-25, 117:5-24; Michael Dep. 115:18-116:6).

42. Plaintiffs have never requested to reserve a public space in the Town, or asked for an issue to be added to the Town Board's agenda (Michael Dep. 61:3-15; Serratto Dep. 163:6-164:2; Siguenza Dep. 48:25-49:5; Aguirre Dep. 45:7-14).

43. Three Plaintiffs have never attended a Town Board meeting or a community event hosted by the Town outside of those related to this action (Aguirre Dep. 45:15-47:17, 49:12-15; Siguenza Dep. 118:9-11; Michael Dep. 61:4-11, 70:17-20).

44. Plaintiff Serratto believes that he had attended a Town Board meeting prior to the hearings related to this action, but he does not remember when it was (Serratto Dep. 78:15-20).

Plaintiff Serratto has never requested to meet with a Town Board member or with the Town Supervisor (*id.* at 164:3-18).

45. The only evidence demonstrates that the Town is responsive to members of all races and is actively working to respond to the needs of all residents (*see, e.g.*, Sialiano Dep. 19:5-6, 53:19-54:12, 136:18-137:21; Rogers-Smalley Dep. 17:19-24, 97:12-98:9, 106:17-107:21; Saracino Dep. 150:21-152:9).

46. All four Plaintiffs live in the villages within the Town. Plaintiff Sergio Serratto lives in the Village of Pleasantville (Serratto Dep. 15:9-14), and Plaintiffs Anthony Aguirre, Kathleen Siguenza, and Ida Michael live in the Village of Sleepy Hollow (Aguirre Dep. 12:13-15; Siguenza Dep. 105:19-21; Michael Dep. 9:7-8).

47. Plaintiffs do not know what services the Town provides to the villages (Serratto Dep. 320:12-17; Michael Dep. 124:14-125:17; Siguenza Dep. 129:15-19).

48. Plaintiffs do not know what legal authority the Town has over the villages (Serratto Dep. 320:18-24; Michael Dep. 126:9-13; Siguenza Dep. 129:15-19; Aguirre Dep. 91:14-20).

49. The one concrete example Plaintiff Siguenza could provide of ways the Town could better serve her needs was making the Town pool more accessible to residents of Sleepy Hollow (Siguenza Dep. 130:2-131:11). But, she admitted that Sleepy Hollow residents are able to gain entry to the pool (*id.* at 134:6-135:3), and that she has never expressed this concern to anyone in the Town (*id.* at 137:19-138:11).

50. There is no evidence that a Hispanic resident of the Town has ever ran for a Town elected office and lost (Aguirre Dep. 52:25-53:8; Michael Dep. 78:11-79:6; Siguenza Dep. 66:6-9; Serratto Dep. 204:5-17).



51. Plaintiffs admitted that the evidence supporting their allegations that Hispanic residents are unable to take time off work to vote and that language barriers prevent them from obtaining election information evidence is anecdotal or entirely absent (*see* Aguirre Dep. 62:14-69:18, 77:25-78:18; Siguenza Dep. 115:16-116:17, 117:5-14; Serrato Dep. 298:13-303:8, 310:7-311:2).

52. Plaintiffs have never asked the Town to change their information distribution methods or provide information in Spanish (Serrato Dep. 302:15-303:8; Siguenza 116:18-117:14; Michael Dep. 107:17-110:10, 119:2-9).

53. There is no evidence indicating that socioeconomic disparities between Hispanic and white residents of the Town reflect anything other than recent immigration status (*see* Sandoval-Strausz Rep. 26-30).

54. There is no evidence tying these socioeconomic conditions to any government actions or to electoral opportunity in the Town (*see id.*).

Dated: New York, New York  
August 13, 2024

Respectfully submitted,  
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