

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

**STATEMENT OF MATERIAL  
FACTS AS TO WHICH  
THERE ARE NO GENUINE  
ISSUES TO BE TRIED**

Sergio Serratto, Anthony Aguirre, Ida Michael, and Kathleen Siguenza (collectively “plaintiffs”), plaintiffs in action bearing Index No. 55442/2024, pursuant to §202.8-g of the Uniform Rules for the Supreme Court, respectfully submit the following statement of material facts as to which there are no genuine issues to be tried:

**I. The parties.**

1. Sergio Serratto is an eligible voter properly registered to vote in the Town of Mount Pleasant. Exhibit N (Deposition of Sergio Serratto) at 86:4-5, 89:14-90:3.
2. Sergio Serratto is Hispanic. Ex. N (Serratto Deposition) at 13:11-13.
3. Anthony Aguirre is an eligible voter properly registered to vote in the Town of Mount Pleasant. Exhibit O (Deposition of Anthony Aguirre) at 31:11-19, 32:12-15.
4. Anthony Aguirre is Hispanic. Ex. O (Aguirre Deposition) at 12:3-5.
5. Ida Michael is an eligible voter properly registered to vote in the Town of Mount Pleasant. Exhibit P (Deposition of Ida Michael) at 34:2-6
6. Ida Michael is Hispanic. Ex. P (Michael Deposition) at 8:23-24.

7. Kathleen Siguenza is an eligible voter properly registered to vote in the Town of Mount Pleasant. Exhibit Q (Deposition of Kathleen Siguenza) at 36:16-21.
8. Kathleen Siguenza is Hispanic. Ex. Q (Siguenza Deposition) at 11:13-19.
9. The Town of Mount Pleasant (“the Town” or “Mount Pleasant”) is a political subdivision of the State of New York as that term is defined under the New York Voting Rights Act. Exhibit B (Defendants Responses to Plaintiffs’ Notice to Admit) at ¶¶ 3, 7.
10. The Village of Sleepy Hollow (“Sleepy Hollow”) is an incorporated village within the Town of Mount Pleasant. Ex. B (Notice to Admit) at ¶ 2.
11. The Town Board of the Town of Mount Pleasant (“the Town Board”) is Mount Pleasant’s legislative and policymaking authority. Ex. B (Notice to Admit) at ¶ 4.
12. The Town Board is comprised of five members: the Town Supervisor, and four other Board members. Ex. B (Notice to Admit) at ¶ 3.
13. Carl Fulgenzi is currently the Town Supervisor. Ex. B (Notice to Admit) at ¶ 5.
14. The other Board members are Mark Saracino, Danielle Zaino, Laurie Rogers-Smalley, and Tom Sialiano. Ex. B (Notice to Admit) at ¶ 6.

## II. Town demographics

15. During the early twentieth century, the population of Mount Pleasant was almost exclusively white. The 1950 census recorded that the population in the census tracts corresponding to the Town’s boundaries were 98.5% white, 1.4% Black, and 0.1% “Other.” Exhibit E (First Report of Professor A.K. Sandoval-Strausz) at 10.
16. The first time that Hispanic residents were specifically enumerated in the census was in 1960, under the category “Puerto Rican or Spanish surname.” There were 207 such people in the town that year, comprising 0.6% of the town’s population. Three-quarters of residents

who identified as “Puerto Rican or Spanish surname” lived in the census tract corresponding to what is now known as the Village of Sleepy Hollow. Ex. E (First Sandoval-Strausz Report) at 10.

17. The Hispanic community in Mount Pleasant remained very small through 1970 when the census identified only 236 “people of Spanish origin or descent” in the Town. Ex. E (First Sandoval-Strausz Report) at 10.

18. The Hispanic population of Mount Pleasant grew rapidly in the 1970s, shortly after the federal government outlawed housing discrimination in 1968. Ex. E (First Sandoval-Strausz Report) at 10.

19. The Hispanic population of Mount Pleasant grew to just over 2,400 people in 1980, over 4,100 in 1990, over 6,000 in 2000, over 7,850 in 2010, and over 8,500 in the most recent count in 2022. Ex. E (First Sandoval-Strausz Report) at 10.

20. The Hispanic population of Westchester County grew significantly over this period as well, from .64 percent of the total population in 1970 to 26.3 percent in 2022. Ex. E (First Sandoval-Strausz Report) at 10-11.

21. According to 2022 census data, 67.3 percent of the population of the census tracts comprising the Town of Mount Pleasant identify as “non-Hispanic white,” 20.1 percent as “Hispanic or Latino,” 5.4 percent as “Black or African American,” and 4.7 percent as “non-Hispanic Asian,” with the remainder divided among “Other” or “Two or More Races.” Ex. E (First Sandoval-Strausz Report) at 26.

22. Hispanics comprise the largest minority population in Mount Pleasant. Ex. E (First Sandoval-Strausz Report) at 27.

23. The Hispanic community is heavily concentrated in the southwestern part of the Town, in the Village of Sleepy Hollow. Ex. E (First Sandoval-Strausz Report) at 26-27.

### III. Town governance.

24. The Town Supervisor is responsible for managing the Town's day-to-day affairs. Exhibit R (Deposition of a Representative of the Town of Mount Pleasant Pursuant to CPLR 202.20-d) at 31:23-32:3.

25. The Town Board is the final decisionmaker with respect to more significant issues such as zoning and overseeing the police department. Ex. R (Town Deposition) at 32:13-22.

26. Board members do not represent geographic areas within the Town—all Board members represent all Town residents. Ex. R (Town Deposition) at 45:11-16.

27. Board members serve as liaisons to various Town departments such as the police department, parks and recreation, the library, and the highway. Ex. R (Town Deposition) at 44:10-21.

28. A map of Mount Pleasant appearing on the Town's official website draws a thick blue line around an area of the Town which excludes the Villages of Sleepy Hollow and Pleasantville. Exhibit X (Map of the Town of Mount Pleasant); Ex. R (Town Deposition) at 37:20-38:1.

29. The Town believes it is solely responsible for the people who reside within the area of the map surrounded by the thick blue line. Ex. R (Town Deposition) at 38:3-16.

30. The Village of Sleepy Hollow is within the Town's official borders. Ex. B (Notice to Admit) at 2.

31. Town Board members are aware that the Village of Sleepy Hollow is part of the Town. Exhibit T (Deposition of Mark Saracino) at 19:5-17; 58:8-16; Exhibit U (Deposition of

Danielle Zaino) at 17:8-10; Exhibit S (Deposition of Carl Fulgenzi) at 166:11-19; Exhibit V (Deposition of Laurie Rogers-Smalley) at 16:21-25.

32. Town Board members are aware that residents of Sleepy Hollow are residents of the Town who are eligible to vote in Town elections. Ex. V (Rogers-Smalley Deposition) at 16-25, 17:12-16; Ex. T (Saracino Deposition) at 21:10-14; Ex. U (Zaino Deposition) at 17:22-25; Exhibit W (Deposition of Tom Sialiano) at 17:25-18:14.

33. Town Board members are aware they represent the residents of Sleepy. Ex. T (Saracino Deposition) at 155:4-10; Ex. U (Zaino Deposition) at 17:17-21; Ex. V (Rogers-Smalley Deposition) at 18:19-24.

34. The Town provides services to residents of Sleepy Hollow including collecting taxes, assessing new developments, issuing permits, and providing other forms of assistance as requested by the Village. Ex. R (Town Deposition) at 39:21-40:14; Ex. T (Saracino Deposition) at 24:6-13; Ex. U (Zaino Deposition) at 19:3-20:3; Ex. V (Rogers-Smalley Deposition) at 18:3-9; Ex. W (Sialiano Deposition) at 19:9-22.

35. The Town retains a percentage of the taxes it collects from residents of Sleepy Hollow. Ex. R (Town Deposition) at 39:16-19.

36. Town Board members recognize that the Board's decisions can impact the operations of nearby municipalities. Ex. T (Saracino Deposition) at 114:20-115:8; Exhibit Y (Mark Saracino Facebook Post re: Town Board).

37. The Town does not believe that residents of Sleepy Hollow need representation on the Town Board "[b]ecause there's nothing a Town Board member can do to assist Sleepy Hollow legally." Ex. R (Town Deposition) at 96:10-18.

38. Supervisor Fulgenzi believes that residents of Sleepy Hollow are adequately represented in the Town of Mount Pleasant because Sleepy Hollow “ha[s] its own government.” Ex. S (Fulgenzi Deposition) at 145:12-20.
39. Fulgenzi believes that residents of Sleepy Hollow should bring concerns about representation in government “to the attention of the Sleepy Hollow Village Board where they reside” because, as Town Supervisor, he has “no control . . . over how they operate the Village of Sleepy Hollow.” Ex. S (Fulgenzi Deposition) at 148:9-20.
40. No current member of the Town Board currently resides in or has ever resided in the Village of Sleepy Hollow. Ex. R (Town Deposition) at 51:2-5; Ex. T (Saracino Deposition) at 14:24-15:7; Ex. U (Zaino Deposition) at 12:13-16; Ex. V (Rogers-Smalley Deposition) at 11:25-12:6; Ex. W (Sialiano Deposition) at 14:2-6.
41. No Town official who has held office since 2010 resided in Sleepy Hollow while holding office. Ex. R (Town Deposition) at 51:21-52:2; Exhibit A (Defendants’ Answers to Plaintiffs’ First Set of Interrogatories), Interrogatory No. 8.
42. The Town’s official communications, website, and emergency alert system are exclusively in English. Ex. R (Town Deposition) at 140:15-142:13; Ex. A (Answers to Interrogatories), Interrogatory No. 9.
43. The Town does not know whether any Hispanic person has ever held any Town-wide elected office. Ex. B (Notice to Admit) at ¶ 11; Ex. R (Town Deposition) at 154:2-13.
44. No Hispanic person has ever held a Town-wide elected office in Mount Pleasant. Ex. E (First Sandoval-Strausz Report) at 18-19.
45. Since at least 2015, no Hispanic candidate has run for Town-wide office. Exhibit C (Report of Dr. Lisa Handley Prepared for the Town Board) at 3.

46. Voters have elected Hispanic officials to local offices in the Villages of Sleepy Hollow and Pleasantville. Ex. E (First Sandoval-Strausz Report) at 19, 26.

47. Hispanic residents have chosen not to run for Town offices because they believe they have no chance of succeeding. Ex. N (Serratto Deposition) at 207:6-208:5.

#### **IV. The Town's electoral process.**

48. The Town Supervisor and Board members are elected through an at-large voting system. Ex. R (Town Deposition) at 46:23-47:06.

49. There has been "no specific decision to keep an at large system of electing members to the Town Board" in recent years. Ex. R (Town Deposition) at 49:21-50:3.

50. The Town has no policy justification for maintaining an at-large method of elections. Ex. A (Answers to Interrogatories), Interrogatory No. 8; Ex. YY, Dkt. 8 (Defendants' Answer to Plaintiffs' Complaint) at ¶ 148.

51. The Town Board appoints a replacement officer whenever there is a vacancy on the Board or in the Town Supervisor position. Ex. S (Fulgenzi Deposition) at 72:6-20, 73:14-21, 74:23-75:12.

52. An appointed Board member or Town Supervisor holds his or her seat until the Town conducts a special election. Ex. S (Fulgenzi Deposition) at 83:13-23.

53. At-large election systems were originally created by prosperous Anglo-Americans who believed that district-based elections gave too much power to urban political machines – especially those that represented voters who were working-class, ethnic, or both. Ex. E (First Sandoval-Strausz Report) at 20-21.

54. In general, at-large voting systems dilute the voting power of minority communities like African Americans and Latinos as compared to single-district voting systems. Ex. E (First Sandoval-Strausz Report) at 21.

55. The dilutive effect of at-large elections on minority voting power is most pronounced in municipalities like Mount Pleasant where minority voters are geographically concentrated and there is racially polarized voting. Ex. E (First Sandoval-Strausz Report) at 22.

56. The dilutive effect of at-large elections also decreases Latino voter turnout because Latinos who do not think their votes will be effective in electing candidates who will represent their interests choose not to vote. Ex. E (First Sandoval-Strausz Report) at 25.

57. Shifting away from at-large electoral systems has led to the election of more Latino and Black-preferred city councilmembers and to greater responsiveness to Latino and Black constituencies from municipal governments that had previously neglected Latino and Black communities. Ex. E (First Sandoval-Strausz Report) at 21.

#### **V. Running for Town Board.**

58. The Mount Pleasant Republican Committee (the “Republican Committee”) selects the candidates who will appear on the Republican to appear on its ballot line for Town offices through an internal vote. Ex. S (Fulgenzi Deposition) at 57:5-7; Ex. U (Zaino Deposition) at 81:13-21; Ex. V (Rogers-Smalley Deposition) at 34:4-7; Exhibit Z (Rules and Regulations of the Mount Pleasant Republican Committee) at 3 (“Republican candidates for town office shall be chosen by the members of the Town Committee.”).

59. To appear on the Republican ballot line, candidates must send their resume to the Republican Committee and undergo an interview process. Ex. S (Fulgenzi Deposition) at



60:20-61:4; Ex. V (Rogers-Smalley Deposition) at 38:9-12; Ex. W (Sialiano Deposition) at 27:17-28:2.

60. The Republican Committee typically endorses a slate of candidates who run for multiple Town offices (or multiple seats on the Town Board) together on a single platform. Ex. V (Rogers-Smalley Deposition) at 36:14-20; Ex. W (Sialiano Deposition) at 38:7-16.

61. Every current member of the Board except for Mark Saracino (who appeared on the Republican ballot line), and fourteen out of the seventeen individuals who have served on the Board since 2010, has been a registered member of the Republican Party. Ex. A (Answers to Interrogatories), Interrogatory No. 5.

62. Before being elected to Town office, Supervisor Fulgenzi was a member of various civic clubs in Mount Pleasant including the Lions Club, the Chamber of Commerce, and the Republican Committee. Ex. S (Fulgenzi Deposition) at 12:9-24.

63. Fulgenzi became involved in local politics by submitting a resume to the Republican Committee expressing his interest in running for Town Board. Ex. S (Fulgenzi Deposition) at 21:10-23.

64. Initially, the Republican Committee denied his application to run for Town Board because, in its view, Fulgenzi had not been involved in civic organizations in the community for long enough. Ex. S (Fulgenzi Deposition) at 22:14-21.

65. Fulgenzi served as a Republican Committee district leader prior to being selected to run for Town Board for the first time. Ex. S (Fulgenzi Deposition) at 23:6-24:12.

66. The Republican Committee provided Fulgenzi with instructions regarding how to collect signatures to appear on the ballot in a Town Board election. Ex. S (Fulgenzi Deposition) at 25:10-16.

67. After completing his first four-year term on the Town Board, Fulgenzi decided not to run for re-election due in part to disagreements with other members of the Republican Committee, which Fulgenzi felt operated “like a club” where “if you didn’t fit the mold they didn’t want you and they made your life harder.” Ex. S (Fulgenzi Deposition) at 26:14-28:8.

68. In or around 2007, Fulgenzi decided to again run for a seat on the Town Board at the encouragement of the Republican Committee. Ex. S (Fulgenzi Deposition) at 33:5-17.

69. After suggesting he would run his own slate of candidates against incumbent members of the Town Board, a sub-committee of the Republican Committee selected Fulgenzi to run for an open seat as part of the Republican Committee slate. Ex. S (Fulgenzi Deposition) at 35:12-36:22.

70. During Fulgenzi’s 2007 campaign, the Republican Committee hosted meetings across Mount Pleasant to promote its approved slate of candidates. Ex. S (Fulgenzi Deposition) at 37:21-24.

71. The Republican Committee did not host any meetings in Sleepy Hollow. Ex. S (Fulgenzi Deposition) at 38:25-39:3.

72. The Republican Committee also coordinated phone banks where candidates, including Fulgenzi, contacted potential voters using a Republican Committee voting list. Ex. S (Fulgenzi Deposition) at 39:4-21.

73. Candidates contacted residents who were registered as Republicans, but not residents registered as Independents or Democrats. Ex. S (Fulgenzi Deposition) at 39:25-40:9.

74. The Republican Committee sent mailers to residents registered as Republicans encouraging them to vote for its approved slate of candidates, but not to residents registered as Democrats. Ex. S (Fulgenzi Deposition) at 40:22-42:2.

75. The Republican Committee did not produce campaign materials in Spanish. Ex. S (Fulgenzi Deposition) at 42:3-6.
76. The Republican Committee reached out to local organizations like the Police Benevolent Association to obtain endorsements for its approved slate of candidates. Ex. S (Fulgenzi Deposition) at 46:24-47:25.
77. In 2012, despite not asking for the job, Fulgenzi was appointed by the Town Supervisor to be the Deputy Supervisor. Ex. S (Fulgenzi Deposition) at 70:9-70:23.
78. In 2014, Fulgenzi was appointed by the Board to replace a Town Supervisor who had retired. Ex. S (Fulgenzi Deposition) at 71:17-19.
79. The Town Board did not conduct interviews or solicit nominations before appointing Fulgenzi. Ex. S (Fulgenzi Deposition) at 71:20-72:20.
80. Afterward, the Town Board appointed a member of the Republican Committee to fill the Board seat formerly held by Fulgenzi. Ex. S (Fulgenzi Deposition) at 79:4-80:13; Ex. A (Answers to Interrogatories), Interrogatory No. 5.
81. The Town Board also appointed a sitting Board member to fill a Town Supervisor vacancy in 2010 without conducting interviews or soliciting nominations for the position. Ex. S (Fulgenzi Deposition), 74:14-75:12; Ex. A (Answers to Interrogatories), Interrogatory No. 5.
82. The Town Board then appointed a member of the Republican Committee to fill the vacancy created by the elevation of the sitting Board member to Town Supervisor. Ex. S (Fulgenzi Deposition) at 75:13-77:15; Ex. A (Answers to Interrogatories), Interrogatory No. 5.
83. In 2018, a member of the Town Board was appointed to be a Town Justice. Ex. S (Fulgenzi Deposition) at 82:25-83:6.

84. The Town Board appointed a member of the Republican Committee to fill the vacancy created by the Town Justice appointment. Ex. S (Fulgenzi Deposition) at 82:7-21; Ex. A (Answers to Interrogatories), Interrogatory No. 5.

85. The only outreach the Board conducts to publicize vacant positions is to publish an announcement in a local paper and to note the vacancy at a Town Board meeting. Ex. S (Fulgenzi Deposition) at 83:4-8.

86. The vacancy announcement is not published in Spanish or in any Spanish-language media sources. Ex. S (Fulgenzi Deposition) at 83:9-12.

87. Individuals who are interested in filling a vacant seat on the Town Board must interview with the Republican Committee. Ex. W (Sialiano Deposition) at 45:4-11.

88. Individuals appointed to the Town Board or as Town Supervisor hold office until a special election can be conducted. Ex. S (Fulgenzi Deposition) at 83:21-23.

89. Since 2015, every individual appointed to serve on the Town Board or as a Town Supervisor won their ensuing special election, except one. Ex. S (Fulgenzi Deposition) at 83:24-85:22; Ex. A (Answers to Interrogatories), Interrogatory No. 5.

90. In the 2023 Town elections, the Republican Committee asked the Conservative Party to place the Republican Committee slate of candidates on the Conservative Party ballot line. Ex. S (Fulgenzi Deposition) at 61:5-20.

91. Fulgenzi and other candidates selected for the Republican Party slate appeared on the Conservative Party ballot line. Ex. S (Fulgenzi Deposition) at 61:5-20; Exhibit AA (Facebook Post Promoting Republican and Conservative Ballot Line).

92. Before being elected to the Town Board, Saracino served for six years on the Town's Architectural Review Board. Ex. T (Saracino Deposition) at 16:17-23.

93. Saracino was appointed to the Architectural Review Board by the Town Board and Town Supervisor. Ex. T (Saracino Deposition) at 41:2-14.

94. Saracino was approached by the local Republican Committee when he was considering running for Town Board and asked to join the Republican Committee candidate slate, even though he was not a registered member of the Republican Party. Ex. T (Saracino Deposition) at 59:16-60:22.

95. Saracino discussed the process of running for Town office with Smalley-Rogers, who was already a member of the Board. Ex. V (Rogers-Smalley Deposition) at 37:18-38:12.

96. Zaino decided to run for Town Board after she was approached by two members of the Republican Committee, including Supervisor Fulgenzi, who asked her to run. Ex. U (Zaino Deposition) at 29:25-30:11, 37:6-38:3.

97. Rogers-Smalley first became involved in local politics when her father asked her to serve as a district leader for the Mount Pleasant Republican Party. Ex. V (Rogers-Smalley Deposition) at 21:4-25.

98. Rogers-Smalley decided to run for Town Board after she was approached by a former Republican Town Supervisor, Nancy Meehan. Ex. V (Rogers-Smalley Deposition) at 26:3-11.

99. Sialiano first became involved in local politics when he was appointed to the Mount Pleasant Architectural Review Board. Ex. W (Sialiano Deposition) at 25:18-21.

100. Sialiano was appointed after expressing his interest in serving in Town government to the Town Supervisor. Ex. W (Sialiano Deposition) at 25:11-18.

101. Sialiano was later appointed to fill a vacant seat on the Town Board. He then prevailed in his ensuing special election. Ex. W (Sialiano Deposition) at 34:7-15.

102. Candidates for Town Board conduct limited, if any, outreach to voters in Spanish. Ex. U (Zaino Deposition) at 46:14-24, 70:10-16; Ex. W (Sialiano Deposition) at 32:24-33:12; Ex. S (Fulgenzi Deposition) at 42:5-13; Ex. T (Saracino Deposition) at 77:24-82:4, 85:18-20, 95:18-23.

103. Candidates for Town Board conducted limited, if any, outreach to residents of Sleepy Hollow. Ex. U (Zaino Deposition) at 100:6-16; Ex. S (Fulgenzi Deposition) at 38:20-39:3.

104. Besides attending two public events in Sleepy Hollow, Zaino did not campaign in Sleepy Hollow when she ran for re-election in 2023. Ex. U (Zaino Deposition) at 68:18-69:10. She knocked on doors in Pleasantville, Hawthorne, and Valhalla, but not in Sleepy Hollow. Ex. U (Zaino Deposition) at 69:16-21.

105. Typically, candidates for Town Board do not visit Hispanic churches or businesses during their campaigns. Ex. N (Serratto Deposition) at 57:10-58:5, 65:8-20.

#### **VI. Plaintiffs NYVRA complaint and the Town's initial response**

106. As stated by the New York legislature, the purpose of the NYVRA is to “offer[] the most comprehensive state law protections for the right to vote in the United States.” Exhibit BB (NYVRA Bill Jacket).

107. On July 13, 2023, Plaintiffs sent a letter by certified mail to the Mount Pleasant Town Clerk advising the Town that its at-large method of electing Town Board members violated the NYVRA (the “notice letter”). Ex. R (Town Deposition) at 148:13-149:7; Exhibit CC (Plaintiffs' NYVRA Notice Letter) (TMP0000208-0000210).

108. On August 25, 2023, the Town Board conducted a special meeting “for the purpose of consideration of the adoption of a New York Voting Rights Act (NYVRA) resolution as per

NYS Election Law § 17-206 *et seq.*” Exhibit DD (Town of Mount Pleasant Notice of Public Hearing) (TMP0001388).

109. At the August 25, 2023 meeting, the Town Board adopted the NYVRA resolution and approved the hiring of two expert consultants, Dr. Lisa Handley and Jeffrey Wice, “to investigate the claim of the alleged voting rights act claims (NYVRA) and assist the Town Supervisor and Town Attorney in investigating same and complying, to the extent the Town is not already complying, with New York State law (NYVRA) and/or federal law.” Ex. R (Town Deposition) at 175:18-176:8, 182:19-183:13; Exhibit EE (Town of Mount Pleasant NYVRA Resolution) (TMP0001389-0001391).

110. The Town Board resolved that it was “availing itself of the ‘Safe Harbor Provision’ under the NYVRA,” citing NYS Election Law § 17-206(7). Ex. EE (NYVRA Resolution) at 2 (TMP0001390).

111. The Town Board further resolved that, within thirty days of receiving the reports from Dr. Handley and Mr. Wice, it would hold two public hearings “to obtain input from the public regarding any proposed remedy(ies) believed to be necessary and appropriate by the Town including, without limitation, the composition of new election districts before drawing any draft districting plan(s) or proposed boundaries of the districts.” Ex. EE (NYVRA Resolution) at 2 (TMP0001390).

112. The Town Board hired Dr. Handley and Mr. Wice to prepare reports assessing Plaintiffs’ NYVRA claims. Ex. B (Notice to Admit) at ¶¶ 21-22.

113. The Town Attorney received reports from Dr. Handley and Mr. Wice on or around November 10, 2023. Ex. B (Notice to Admit) at ¶ 23.

114. On November 16, 2023, the Town Board conducted its first special meeting to discuss Plaintiffs' NYVRA claims. Exhibit FF (Minutes of November 16, 2023 Special Meeting).

115. At the November 16, 2023 meeting, some members of the community spoke in favor of altering the Town's electoral system to comply with the NYVRA, while others expressed opposition and urged the Town Board to fight the lawsuit. Ex. FF (Minutes of November 16, 2023 Special Meeting).

116. Plaintiff Serrotta stated that his lawsuit was "not about Sleepy Hollow having a Hispanic running," it was about enabling the Hispanic community to "pick their own candidate." He explained that candidates "don't run [for Town office] because they have no chance" and noted that "[n]one of the [current] board members have come to the two churches in Sleepy Hollow to speak to the congregation." Ex. FF (Minutes of November 16, 2023 Special Meeting) at 3 (TMP0001421).

117. On November 20, 2023, the Town Board conducted its second special meeting to discuss the NYVRA claims raised in Plaintiffs' complaint. Ex. GG (Minutes of November 20, 2023 Special Meeting).

118. At the special meeting occurring on November 20, 2023, Saracino, who had just won election to the Town Board, stated—in reference to the NYVRA allegations raised in Plaintiffs' complaint—that "I think that there are real issues in the world. For minority folks I think there are real communities that might have issues. This is not one of them. Don't bring your tension here and dilute a real possible issue." Ex. T (Saracino Deposition) at 149:11-21; Ex. E (First Sandoval-Strausz Report) at 40; Ex. B (Notice to Admit) at ¶ 42; Ex. GG (Minutes of November 20, 2023 Special Meeting) at 2 (TMP0001496).



119. Saracino asserted that “[t]he ward idea to me is the lawyers telling you that you know what, we want to put you in a pocket. We want to keep you here forever. We want to own you. We’re going to give you a ward. We’re going to engineer the voting system so that you have your ward. . . . Because they don’t think that you’re smart enough or ambitious enough to get out of that ward and do it for yourself.” Ex. GG (Minutes of November 20, 2023 Special Meeting) at 2 (TMP0001496); Ex. E (First Sandoval-Strausz Report) at 39; Ex. B (Notice to Admit) at ¶ 42.

120. Saracino stated that “[i]f you want to make a difference and be a pioneer, why doesn’t Sleepy Hollow become a Town?” Ex. T (Saracino Deposition) at 152:10-19; Ex. GG (Minutes of November 20, 2023 Special Meeting) at 2 (TMP0001496); Ex. B (Notice to Admit) at ¶ 42.

121. The Town also received public comments on the lawsuit via email. Ex. S (Fulgenzi Deposition) at 112:3-115:14; Exhibit HH (Record of Public Comments Received by Town re: NYVRA Allegations).

122. Some Town residents wrote to Supervisor Fulgenzi to encourage him to address Plaintiffs’ concerns regarding Hispanic representation in the Town. For example, Town resident Domenick Vita wrote to Supervisor Fulgenzi that “[t]he better our town is reflected on the board, the better our board can serve our town. Having the diversity of opinion reflected on the town board that comes from the diverse, lived experiences of our town members is very valuable for our town and will help to ensure that we are all represented in those town seats.” Supervisor Fulgenzi did not respond to Mr. Vita’s message. Ex. HH (Record of Public Comments) at 140-41 (TMP0000160-0000161).

123. Another resident, Liz Sheehan, wrote in an email to Supervisor Fulgenzi that “[n]o one seems to be able to articulate what the issues are and what disparities or discrimination has occurred, just hurt feelings???” In response, Supervisor Fulgenzi stated “Thank you for your common sense understanding of the issues we are facing[,] eventually I will be stating our position and direction when the time is right.” Ex. HH (Record of Public Comments) at 98-99 (TMP0000117-0000118).

124. Another resident, Michael McGuinn, wrote in an email to Supervisor Fulgenzi and the Town Board that “it doesn’t seem plausible that [Latinos] are being discriminated against due to their ethnic group,” but that “it seems is if our voter registration system is replete with possibilities for unauthorized persons [i.e., noncitizens] to cast a ballot in any election.” In response, Supervisor Fulgenzi wrote “Thank you Mike, for your in depth response and it will be a matter of record[,] as you may not be aware due to pending litigation I cannot respond in anyway [sic] which is difficult for [sic].” Ex. S (Fulgenzi Deposition) at 114:22-115:14; Ex. HH (Record of Public Comments) at 116-17 (TMP0000135-0000136).

## **VII. The pattern of racially polarized voting in Mount Pleasant.**

125. The Town has no independent knowledge of whether Hispanic and non-Hispanic white voters exhibit patterns of racially polarized voting in Town elections. Ex. R (Town Deposition) at 185:21-186:25.

126. Board members have no independent knowledge of whether Hispanic and non-Hispanic white voters exhibit patterns of racially polarized voting in Town elections. Ex. U (Zaino Deposition) at 133:4-21; Ex. T (Saracino Deposition) at 174:2-20.

127. In her report prepared for the Town Board, Dr. Handley performed an analysis to determine whether Hispanic and non-Hispanic white voters in Mount Pleasant exhibited

patterns of racially polarized voting. Ex. R (Town Deposition) at 182:19-183:13; Ex. C (Handley Report) at 1 (TMP0000226).

128. Dr. Handley analyzed all contested Town elections in Mount Pleasant since 2015 using three standard statistical techniques to derive estimates of the percentage of Hispanic and non-Hispanic White voters supporting each candidate for office: ecological inference RxC, King's ecological inference technique "King's EI", and ecological regression. Ex. C (Handley Report) at 2-3 (TMP0000227-228)

129. These statistical methods are routinely accepted by courts for analyzing voting patterns by race. Ex. C (Handley Report) at 6-8 (TMP0000231-0000233).

130. Based on this analysis, Dr. Handley concluded that "voting is racially/ethnically polarized [in Mount Pleasant]: Hispanic voters and non-Hispanic white voters consistently support different candidates and the candidates supported by non-Hispanic White voters usually prevail in Mount Pleasant elections." Ex. C (Handley Report) at 1 (TMP0000226).

131. Dr. Handley found that "[t]he candidates preferred by Hispanic voters won only one of the six polarized [Town-wide] contests." Ex. C (Handley Report) at 4 (TMP0000229).

132. According to Dr. Handley, the candidate preferred by Hispanic voters prevailed over the candidate preferred by non-Hispanic white voters in the 2018 election for Town Board due to "higher White support than usual for a Democratic candidate, and much higher turnout on the part of both Whites and Hispanics." Ex. C (Handley Report) at 4 (TMP0000229).

133. Mr. Wice agreed with Dr. Handley that "voting is racially polarized in [Mount Pleasant]." Exhibit D (Report of Jeffrey Wice Prepared for the Town Board) at 4 (TMP0000224).

134. Mr. Wice explained that “[e]ven though the Town has never had any allegations of racial discrimination or vote dilution in the past related to its at-large voting system, the [NYVRA] permits an action against the Town due to the level of racially polarized voting.” Ex. D (Wice Report) at 1-2 (TMP0000221-222).

135. Mr. Wice concluded that “[t]his pattern [of racially polarized voting] alone, minus any additional totality of the circumstances evidence, is very likely to warrant remedial action.” Ex. D (Wice Report) at 4 (TMP0000224).

136. Plaintiffs retained Professor Yamil Ricardo Velez as an expert to assess whether racially polarized voting exists in Mount Pleasant. Exhibit H (First Report of Professor Yamil Velez) at 1.

137. Professor Velez is an assistant professor of Political Science at Columbia University who uses quantitative methods to study topics such as political psychology, public opinion, and representation. He has published over twenty peer-reviewed articles. Ex. H (First Velez Report) at 1.

138. To estimate the share of Hispanic and non-Hispanic white voters in each precinct, Professor Velez utilized Census block-level estimates of each group’s registration and turnout rates developed by the Redistricting Data Hub. These estimates rely on aggregate data from the election data firm, L2, which uses proprietary techniques based on commercial data to predict the ethnicity of voters. Ex. H (First Velez Report) at 2.

139. L2 data has been used in academic research to examine the performance of Bayesian Improved Surname Geocoding (“BISG”), a common method of estimating the racial and ethnic identities of individuals within large datasets. These comparisons have found high

accuracy rates for voter file-derived estimates of ethnicity provided by L2. Ex. H (First Velez Report) at 2.

140. To estimate the Citizen Voting Age Population (“CVAP”) by race in Mount Pleasant’s voting precincts, Professor Velez aggregated the Census block-level data to the precinct level using a spatial routine in R, a programming language routinely used to analyze large data sets. Ex. H (First Velez Report) at 2.

141. Based on this aggregate data, Professor Velez estimated the vote share candidates received in prior elections from Hispanic and non-Hispanic white residents of Mount Pleasant using three widely accepted statistical tools that have been utilized in numerous voting rights cases: Goodman’s ecological regression, King’s EI, and a version of the ecological inference technique known as EI RxC. Ex. H (First Velez Report) at 2-4.

142. Using these widely accepted tools for estimating racially polarized voting, Professor Velez analyzed the results of eight contested Town elections in Mount Pleasant:

- a. 2015 elections for two seats on the Town Board.
- b. 2018 election for one seat on the Town Board.
- c. 2019 election for two seats on the Town Board.
- d. 2019 election for the office of Town Justice.
- e. 2021 election for two seats on the Town Board.
- f. 2021 election for Town Supervisor.
- g. 2023 election for two seats on the Town Board.
- h. 2023 election for Town Supervisor.

Ex. H (First Velez Report) at 4-7.

143. Based on his analysis of voting patterns in these elections, Professor Velez concluded that “evidence consistent with racially polarized voting emerges in the overwhelming majority of races.” Ex. H (First Velez Report) at 7.

144. According to Professor Velez:

Estimates of candidate support for Hispanics and non-Hispanic white voters diverged in all cases. In single seat races, candidates receiving a majority of the vote among Hispanics differed from those receiving a majority of the vote among non-Hispanic whites. Similarly, in multi-seat races, the two candidates with the highest vote share among Hispanics were typically distinct from the top two candidates preferred by non-Hispanic white voters. The most-preferred candidate among Hispanic voters was only successful in one contest (Hagadus-McHale in 2018).

Ex. H (First Velez Report) at 7.

145. Professor Velez also analyzed a set of 37 exogenous elections (e.g., elections for local, statewide, and national offices, other than elections for the Town Board) for which precinct-level data was available. Professor Velez concluded that “evidence consistent with racially polarized voting emerges in the overwhelming majority of [exogenous] races,” with “a majority of Hispanic voters and a majority of non-Hispanic white voters tend[ing] to support different candidates for political office according to the EI RxC estimates.” Ex. H (First Velez Report) at 7.

146. An expert retained by defendants to rebut Professor Velez’s report, Professor Jeffrey B. Lewis, offered no opinion and reached no conclusion regarding the existence of racially polarized voting patterns in Mount Pleasant. Exhibit I (Rebuttal Report of Professor Jeffrey Lewis) at 23.

147. Professor Lewis claimed that Professor Velez used an unreliable method to aggregate data from census blocks to precincts which affected Professor Velez’s estimates of

the racial and ethnic composition of voters in individual voting precincts. Ex. I (Lewis Report) at 2.

148. Professor Velez's preferred method – known as the “Intersection Method” – is regularly used by political scientists for translating census block data into estimating the racial and ethnic composition of voting precincts. Ex. J (Second Report of Professor Yamil Velez) at 2.

149. Professor Lewis's preferred method – the “Largest Overlap Method” – has similar limitations to the Intersection Method utilized by Professor Velez. Ex. J (Second Velez Report) at 2.

150. Professor Velez performed robustness checks using alternative methods for estimating precinct-level demographics which confirmed the reliability of his initial estimates. Ex. J (Second Velez Report) at 2-7.

151. Professor Velez also utilized a more complex method for estimating precinct-level racial and ethnic composition – the “Weighted Assignment Spatial Routine Method” – which allocates population and demographic data proportionally based on the geographic overlap between census blocks and precincts. Ex. J (Second Velez Report) at 3.

152. When using the Weighted Assignment Spatial Routine Method, Professor Velez produced comparable estimates of Hispanic and non-Hispanic white candidate preferences as found in his initial report. Estimates of turnout and CVAP share of the total population also remained consistent across both methodologies. Ex. J (Second Velez Report) at 3.

153. Professor Velez also used the BISG Method Professor Lewis utilized in his report to re-analyze his initial findings. He found a near-perfect correlation between CVAP and turnout rate estimates using either the Intersection Method, the Weighted Assignment Spatial Routine

Method, and the BISG Method, with minuscule differences across the three approaches. Ex. J (Second Velez Report) at 6.

154. There is also evidence of racially polarized voting in Democratic Party primary elections. Ex. J (Second Velez Report) at 11.

155. No matter what methodology is used to estimate precinct-level demographics, voting patterns in Mount Pleasant exhibit group differences consistent with racially polarized voting. Ex. J (Second Velez Report) at 14.

156. Professor Velez found that “even with the use of other procedures such as BISG, voting patterns continue to exhibit group differences consistent with racial polarization.” Ex. J (Second Velez Report) at 14.

157. Professor Velez’s conclusions are also consistent with the findings contained in Dr. Handley’s report. Ex. J (Second Velez Report) at 7.

### **VIII. The availability of alternative electoral systems.**

158. Professor Velez also analyzed the potential implications of shifting from the existing at-large system to a ward-based plan by creating four districting plans, each containing four districts that respect traditional districting constraints such as compactness and population parity requirements. Ex. H (First Velez Report) at 9; Ex. J (Second Velez Report) at 7.

159. Professor Velez aggregated vote count estimates for Hispanic-preferred and non-Hispanic white-preferred candidates at the precinct level across four single-seat Town elections using the Area Weighted method. Ex. J (Second Velez Report) at 7.

160. Each of Professor Velez’s four potential ward-based districting plans contains at least one district with an estimated Hispanic citizen voting age population (“CVAP”) of greater than 30 percent. Ex. J (Second Velez Report) at 7.



161. In each of Professor Velez's four potential ward-based districting plans, the simulation data indicates that there is a district in which the Hispanic-preferred candidate would be expected to win a seat on the Town Board. Ex. J (Second Velez Report) at 7-8.

162. No matter what method is utilized to estimate precinct-level demographics, there is one district where the Hispanic-preferred candidate is likely to receive a majority of the district-wide vote in each of his four simulated districting plans. Ex. J (Second Velez Report) at 7.

163. Professor Lewis's report does not dispute Professor Velez's conclusion that the existing at-large system dilutes the voting power of Hispanic voters in Mount Pleasant relative to a ward-based system which respects traditional districting criteria. Ex. I (Lewis Report) at 1-24.

164. Professor Lewis's analysis also produced a simulated district with a higher-than-average Hispanic CVAP where Hispanic-preferred candidates would likely earn a majority of votes cast. Ex. I (Lewis Report) at 6; Ex. J (Second Velez Report) at 7.

165. Plaintiffs retained Professor Daryl R. DeFord to assess whether the existing at-large system diminishes the opportunity for members of Mount Pleasant's Hispanic community to elect candidates of their choice compared to alternative electoral systems (e.g., systems using neither single-member districts or at-large voting). Exhibit K (First Report of Professor Daryl DeFord) at 1.

166. Professor DeFord is an Assistant Professor of Data Analytics in the Department of Mathematics and Statistics at Washington State University whose research applies mathematical and computational tools to a wide variety of data within the social sciences and

particularly focuses on the study of statistical sampling techniques for analyzing political redistricting and elections. Ex. K (First DeFord Report) at 1.

167. Professor DeFord has served as an expert in numerous cases involving redistricting, including cases at the Wisconsin Supreme Court, the United States Supreme Court, and the Pennsylvania Commonwealth Court. He also produced reports and analysis for the Colorado Independent Legislative Redistricting Commission. Ex. K (First DeFord Report) at 1-2.

168. Professor DeFord conducted his analysis using the estimated values of voting preference and polarization for Hispanic and non-Hispanic white voters in Mount Pleasant generated by Dr. Handley and utilized in the report she prepared for the Town. Ex. K (First DeFord Report) at 2.

169. Professor DeFord estimated the impact of switching from the Town's current at-large system to three different alternative electoral systems: cumulative voting, limited voting, and proportional ranked choice voting ("PRCV"). Ex. K (First DeFord Report) at 3-4.

170. To assess the potential effects of each system, Dr. DeFord utilized a concept called the "threshold of exclusion," a modeling assumption which assesses the likelihood of Hispanic voters electing a candidate of their choice in "worst-case situations where the majority votes are distributed with maximal efficiency." Utilizing the threshold of exclusion avoids the need to simulate individual ballots because it assumes that all white voters will vote for the white-preferred candidate. Ex. K (First DeFord Report) at 5.

171. However, to better understand the likely results of elections in Mount Pleasant utilizing alternative electoral systems, Dr. DeFord also generated more detailed models incorporating data from Dr. Handley's report, which allowed him to simulate the potential distributions of votes on individual ballots. Ex. K (First DeFord Report) at 5.

172. To generate these ballot simulations, Dr. DeFord used several common approaches from the mathematical literature, including the Plackett-Luce model, the Bradley-Terry model, the Alternating Crossover model, and the Cambridge Sampler. Ex. K (First DeFord Report) at 5-6.

173. These simulations also incorporate parameters informed by data from Dr. Handley's report, including the proportion of minority voters to majority voters, the willingness of members of each group to vote for candidates preferred by the other group (i.e., crossover voting), and the relative support within each group for their group's preferred candidates (i.e., candidate strength). Ex. K (First DeFord Report) at 6.

174. In all simulations, Dr. DeFord set the proportion of Hispanic voters in Mount Pleasant at 20 percent and the proportion of white voters at 80 percent, which reflects a slightly lower ratio of Hispanic to non-Hispanic white residents than actually found in Mount Pleasant. Ex. K (First DeFord Report) at 6.

175. Dr. DeFord's simulations also considered the effects of implementing other changes to Mount Pleasant's electoral system which are available as remedies under the NYVRA, such as eliminating staggered elections, increasing the size of the Town Board, and synchronizing the dates of Town elections with other general or primary elections. Ex. K (First DeFord Report) at 5.

176. If the Town adopted an alternative election system and made no other changes, there would be a higher likelihood that a Hispanic-preferred candidate would win a seat on the Town Board under an alternate electoral system than under the existing at-large system as long as there is some crossover voting (even at levels lower than what was found by Dr. Handley),

even if white voters voted for the white-preferred candidate in a maximally efficient way. Ex. K (First DeFord Report) at 7-8.

177. To better approximate real-world voting dynamics, Dr. DeFord created simulated ballots utilizing different parameters to reflect different possible levels of majority voter cohesiveness, minority voter cohesiveness, majority-preferred candidate strength, and minority-preferred candidate strength. He then estimated the likely outcome for each alternative electoral method under various conditions. Ex. K (First DeFord Report) at 8.

178. Cumulative voting is an election method for multi-winner elections where each voter is allowed to cast a number of votes equal to the number of candidates running in the election. Ex. K (First DeFord Report) at 3.

179. Cumulative voting was implemented in Port Chester, another locality in Westchester County, as the result of a lawsuit alleging that the town violated the federal Voting Rights Act, *U.S. v. Village of Port Chester*, No. 06 Civ. 15173(SCR) (S.D.N.Y. Apr. 1, 2010). Residents of Port Chester voted to continue using cumulative voting in a referendum conducted after the initial consent decree imposing cumulative voting expired. Ex. K (First DeFord Report) at 2.

180. Based on his analysis, Dr. DeFord concluded that cumulative voting would offer Hispanic voters a greater opportunity to elect candidates of their choice than the existing at-large system, especially if the number of seats up for election at one time increased. Ex. K (First DeFord Report) at 8.

181. Limited voting is an alternate election system for multi-winner elections wherein voters are given fewer votes than the number of seats available and permitted to cast one vote per candidate. Ex. K (First DeFord Report) at 3.

182. Based on his analysis, Dr. DeFord concluded that “in most of the ballot models with parameters similar to the values in The Handley Report a majority of simulations elected a minority-preferred candidate when there were 4 or 6 available seats.” Ex. K (First DeFord Report) at 11.

183. Proportional ranked choice voting (PRCV) is an alternate election system for multi-member ballots wherein voters express a ranked order preference for candidates appearing on the ballot, and the preferences of each voter are treated as a single vote that may be transferred in preference order to another candidate if the current preferred candidate is eliminated or elected. Ex. K (First DeFord Report) at 4.

184. Based on his analysis, Dr. DeFord found “strong evidence that [PRCV] would be effective at allowing Hispanic voters in Mount Pleasant to elect candidates of their choice,” concluding that his simulations “suggest that using [PRCV] elections to elect four or more candidates would consistently offer Hispanic residents the opportunity to elect candidates of their choice to the Town Board.” Ex. K (First DeFord Report) at 10.

185. Overall, Dr. DeFord concluded that “the adoption of alternative election methods could allow the Hispanic community of Mount Pleasant the opportunity to elect candidates of their choice to the Town Board,” finding “several potential methods that would likely provide these electoral opportunities.” Ex. K (First DeFord Report) at 14.

186. Dr. DeFord found that “for each alternative election method, the simulations corresponding to parameters closest to the values in The Handley Report describe situations in which the minority is consistently able to elect candidates of their choice, particularly when the entire Town Board is elected on a single ballot.” Ex. K (First DeFord Report) at 8.

187. An expert retained by defendants to rebut Dr. DeFord's report, Professor Nolan McCarty, critiqued some of Dr. DeFord's assumptions but failed to account for the real-world example of the shift to cumulative voting in Port Chester, Exhibit L (Rebuttal Report of Professor Nolan McCarty) at 3-7, which indicates that Professor McCarty's theoretical concerns about issues like voter coordination and undervoting are not borne out in practice, Exhibit M (Second Report of Professor Daryl DeFord) at 3-4.

188. Researchers who studied the transition to cumulative voting in Port Chester found that after cumulative voting was adopted, turnout increased significantly, Hispanic and other non-white voters were more likely to be first-time voters, the vast majority of voters used all of their votes, minority voters were not more likely to undervote than white voters, and there was not a significant increase in the number of candidates for each seat. Ex. M (Second DeFord Report) at 3-4.

189. The simulations Professor McCarty performed using his own assumptions about voter and candidate behavior under alternative electoral systems show an improvement in Hispanic electoral influence in most scenarios as compared to the existing at-large system. Ex. L (McCarty Report) at 8-12; Ex. M (Second DeFord Report) at 1-3.

#### **IX. Historical and ongoing discrimination against Hispanics.**

190. Plaintiffs retained Professor A.K. Sandoval-Strausz, the Director of the Latina/o Studies Program and Professor of History at Penn State University, to analyze the Hispanic community in Mount Pleasant. To prepare his report, Professor Sandoval-Strausz—who is the President of the Urban History Association and whose research on Hispanics in the United States has been published extensively in both academic and popular sources—conducted demographic research, statistical analyses, and archival searches using standard methodologies

he has utilized throughout his thirty-three-year career as an historian. Ex. E (First Sandoval-Strausz Report) at 4-6.

191. During the twentieth century, many deeds for properties in the suburbs surrounding New York contained racially restrictive covenants that barred selling homes to Black people, and sometimes other people of color. Some restrictive covenants expressly barred people of Mexican ancestry. Ex. E (First Sandoval-Strausz Report) at 8.

192. During this period, the presence of Black or Latino individuals negatively affected federal appraisals of neighborhood security or desirability both nationwide and in New York State. Ex. E (First Sandoval-Strausz Report) at 9.

193. For example, in one report dated October 1, 1937, a federal appraiser wrote in describing a Bronx neighborhood: “There is a steady infiltration of negro, Spanish and Puerto Rican into the area.” The appraiser specified that, accordingly, the neighborhood’s “Trend of desirability next 10-15 years” was “Down” and assigned the area a “Security Grade” of “D-.” Ex. E (First Sandoval-Strausz Report) at 9.

194. Historic discrimination against minorities in the housing market is a primary driver of contemporary racial wealth disparities and residential segregation, as Black and Latino families were excluded from the wealth-generating opportunity to build equity in homes. Ex. G (Second Sandoval-Strausz Report) at 11.

195. Hispanics in New York were also excluded from participating in the state’s politics and governance. In 1921, just four years after the Jones Act made Puerto Ricans residents of the United States (and thus eligible to vote), the State of New York conditioned the right to vote on the ability to pass an English-language literacy test. Ex. E (First Sandoval-Strausz Report) at 11.

196. In the late 1950s and early 1960s, in parts of northern Manhattan where older white populations were being supplanted by Puerto Ricans, older incumbent officeholders tried to keep the newcomers from electing their own preferred political representatives, even going so far as to inflict violence against Hispanic candidates who sought to challenge local district leaders. Ex. E (First Sandoval-Strausz Report) at 12.

197. In 1972, state politicians attempted to dilute the voting strength of minority voters by proposing a redistricting plan that would have concentrated Black and Hispanic voters in a limited number of seats and distributing the rest among white-majority districts, a practice known as “packing and cracking.” Ex. E (First Sandoval-Strausz Report) at 12.

198. In 1975, accumulating evidence of the ongoing exclusion of Hispanic voters from the political process led to the inclusion of a “language-minority” category of protected class in the revision and reauthorization of the federal Voting Rights Act. Ex. E (First Sandoval-Strausz Report) at 13; *see also Katzenbach v. Morgan*, 384 U.S. 641, 658 (1966); *Torres v. Sachs*, 381 F. Supp. 309, 311 (S.D.N.Y. 1974); *Arroyo v. Tucker*, 372 F. Supp. 764, 765 (E.D. Pa. 1974); *Puerto Rican Org. for Pol. Action v. Kusper*, 490 F.2d 575, 576 (7th Cir. 1973).

199. In 1981, the Puerto Rican Legal Defense and Education Fund and the Puerto Rican and Black legislative caucus challenged new district lines for the New York City council that reduced Puerto Rican and Black representation. *See Herron v. Koch*, 523 F. Supp. 167, 172 (E.D.N.Y. 1981). The U.S. Department of Justice refused to preclear the new districts, forcing a revision. Ex. E (First Sandoval-Strausz Report) at 13-14; *see also* Letter from the U.S. Department of Justice to the New York City Council Redistricting Commission (Oct. 27, 1981), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/NY-1040.pdf>; Letter



from the U.S. Department of Justice to the New York State Board of Elections (Sep. 18, 1981), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/NY-1030.pdf>.

200. Another method used to disfranchise Hispanic voters was to manipulate political clubs and party organizations to exclude Hispanic candidates. As late as 1990, the Queens Democratic establishment had never supported a Latino candidate, even though Latinos comprised one-fifth of the borough's population. The party establishment refused to participate in voter registration for new citizens and tried to disband Latino Democratic clubs, then used the resultant low turnout to justify ignoring potential Latino candidates. Ex. E (First Sandoval-Strausz Report) at 14.

201. New York State also discriminated against Hispanic voters by unevenly implementing the National Voter Registration Act of 1993. The state cut funding for staff positions assigned to register new voters who were young and racially more diverse, resulting in new registrants in mostly white upstate New York outnumbering those in more diverse New York City by a 4:1 ratio, even though two-thirds of the registration-eligible people lived in New York City. Ex. E (First Sandoval-Strausz Report) at 15.

202. In 2001, in statewide elections, New York State determined that the Voting Rights Act required it to provide 779 Spanish-language interpreters, but it fielded only 523 such interpreters. Ex. E (First Sandoval-Strausz Report) at 15.

203. That same year, the Social Justice Center at Pace University brought a lawsuit alleging that the Westchester County redistricting plan "dilute[d] the voting power of minorities by splitting Black and Hispanic communities into separate districts" in violation of the Voting Rights Act, leading to the adoption of alternative districting plans. Ex. E (First Sandoval-Strausz Report) at 15.

204. In 2005, the U.S. Department of Justice filed suit against Westchester County for violating the Voting Rights Act and the Help America Vote Act. The Department of Justice alleged that the County had not offered election information in Spanish that it had made available in English. In response, Westchester County immediately agreed to a consent decree with the Department of Justice, pledging to make available in Spanish all material needed to facilitate voting. The County also promised to make sure that there were Spanish-speaking personnel on hand in places where voters needed to ask questions about the process. In addition, the Department of Justice required the County to allow federal monitoring of future elections. Ex. E (First Sandoval-Strausz Report) at 16.

205. As the U.S. Department of Justice Assistant Attorney General for Civil Rights stated in a press release describing the settlement, Westchester County's voting practices had "hindered significant numbers of language minority citizens" from exercising their right to vote. Ex. E (First Sandoval-Strausz Report) at 16.

206. In the 2006 elections in Yonkers, supporters of State Senator Nicholas Spano challenged thousands of voters on the grounds of irregularities in their addresses, most notably in the heavily Latino and African American precincts in North Yonkers. Ex. E (First Sandoval-Strausz Report) at 16-17.

207. These challenges led to long lines at polling locations in heavily Latino and African American precincts until a deputy commissioner of elections was called in and threatened action against voter intimidation. As a result, famed New York journalist Juan Gonzalez labeled Westchester "the Deep South of New York State." Ex. E (First Sandoval-Strausz Report) at 16-17.

208. In 2010, the U.S. District Court for the Southern District of New York concluded that “the Village of Port Chester’s at-large system for electing its Board of Trustees violates Section 2 of the Voting Rights Act” because this “election system for electing members of the Board of Trustees prevents Hispanic voters from participating equally in the political process in the Village.” Ex. E (First Sandoval-Strausz Report) at 17; *see also United States v. Vill. of Port Chester*, 704 F. Supp. 2d 411, 446 (S.D.N.Y. 2010).

209. In 2012, Orange County was sued by the U.S. Department of Justice for failing to offer Spanish-language translators or provide election-related information in Spanish, resulting in a consent decree requiring a bilingual elections program with ballots in Spanish and English and bilingual election workers. Ex. E (First Sandoval-Strausz Report) at 17.

210. In 2020, the Town of Islip, a municipality in Suffolk County on Long Island agreed to a court-approved settlement after being sued for discriminating against Latinos in Town elections. Ex. E (First Sandoval-Strausz Report) at 17; *see also Flores v. Town of Islip*, 2020 WL 6060982, at \*5 (E.D.N.Y. Oct. 14, 2020).

211. Defendants retained Professor Donald T. Critchlow as a historical consultant to reply to assertions raised in Plaintiffs’ complaint and the expert report of Professor A.K. Sandoval-Strausz. Professor Critchlow is a historian of American political history who has no experience studying the Hispanic community in the United States and has never published a book, article, or research note addressing this topic. Exhibit F (Report of Professor Donald Critchlow) at 2-3; Exhibit G (Second Report of Professor A.K. Sandoval-Strausz) at 1.

212. Professor Critchlow’s report deviates from accepted standards among historians by using faulty data, misrepresenting the significance of sources that he cites, relying on non-

representative sources or sources that do not bolster his conclusions, and by offering logical non-sequiturs and straw-man arguments. Ex. G (Second Sandoval-Strausz Report) at 18-21.

213. In his report, Professor Critchlow asserts that “[p]laintiffs and their expert witness . . . incorrectly refer to Hispanics as a single group. Hispanics 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.” Ex. F (Critchlow Report) at 3.

214. Professor Sandoval-Strausz has never claimed that Hispanics in the United States (or in Mount Pleasant) are monolithic. *See generally* Ex. E (First Sandoval-Strausz Report).

215. There is an extensive scholarly literature documenting the processes by which Hispanic has become a pan-ethnic identity marker for millions of predominantly Spanish-speaking residents of the United States from various backgrounds, and for the businesses, organizations, and governmental entities that serve them. Ex. G (Second Sandoval-Strausz Report) at 2-8.

216. Complete homogeneity is not a prerequisite for minority groups to be cognizable under the NYVRA or other state or federal antidiscrimination laws. Ex. G (Second Sandoval-Strausz Report) at 6.

217. Like Hispanic, other racial or ethnic identity groups such as Black, Asian American, Native American, and white all contain or include people of varying nationality, income, politics, and phenotype. Ex. G (Second Sandoval-Strausz Report) at 6.

218. Professor Critchlow also asserts that “much of the evidence relied upon by Professor Sandoval-Strausz . . . has nothing to do with the Town or the Town Board,” and instead

addresses instances of discrimination affecting Hispanics nationally, in New York State, or in Westchester County (but not in Mount Pleasant specifically). Ex. F (Critchlow Report) at 3-4.

219. For example, Professor Critchlow faults Professor Sandoval-Strausz for “spend[ing] considerable time on a racial covenants [sic] imposed in the development of Levittown (a hamlet within the Town of Hempstead) in the early post-Second World War period. This occurred in Nassau County and is therefore wholly irrelevant to any issue in this case.” Ex. F (Critchlow Report) at 12.

220. Professor Sandoval-Strausz does not reference the use of racial covenants in the development of Levittown a single time in his initial report. *See generally* Ex. E (First Sandoval-Strausz Report); Ex. G (Second Sandoval-Strausz Report) at 18-19.

221. The NYVRA expressly provides that discrimination “in or affecting” residents of a jurisdiction who are members of a protected class is relevant when assessing the totality of the circumstances. N.Y. Elec. Law § 17-206(3)(a).

222. In his report, Professor Critchlow relies extensively on purported evidence of progress “by Hispanics nationally and in the state of New York” (i.e., outside the Town of Mount Pleasant). Ex. F (Critchlow Report) at 17-32.

223. Historians have extensively documented the ways in which discrimination perpetrated by private actors or nearby governments influences the lives of minority residents of a particular jurisdiction, including historical discrimination that has consequences in the present day. Ex. G (Second Sandoval-Strausz Report) at 9-11.

224. As Professor Sandoval-Strausz writes, “the town’s Latinos have not been hermetically sealed off from the outside world—they have traveled beyond the town regularly

and even when at home are affected by laws, people, information, and attitudes that originate elsewhere.” Ex. G (Second Sandoval-Strausz Report) at 2.

225. Professor Critchlow also asserts that Professor Sandoval-Strausz “ignore[s] increased Hispanic/Latino participation in New York politics” and the “great, albeit uneven, progress [that] has been made in protecting the voting rights of Hispanics in New York and nationally.” Ex. F (Critchlow Report) at 4.

226. Professor Sandoval-Strausz’s initial report documents numerous instances of progress made by state and national actors in combatting discrimination against Hispanics and other minority communities. *See, e.g.*, Ex. E (First Sandoval-Strausz Report) at 10 (describing the growth in Mount Pleasant’s Hispanic community after the federal government outlawed housing discrimination).

227. Professor Critchlow does not cite to any actions taken by the Town or Town Board to aid the Hispanic community or combat the effects of discrimination affecting Hispanics. *See generally* Ex. F (Critchlow Report).

228. Professor Critchlow only cites to actions undertaken by other entities like the State of New York and Westchester County. Ex. F (Critchlow Report) at 24-28.

229. Town Supervisor Fulgenzi and the Town have opposed some of these actions. For example, Town Supervisor Fulgenzi “forcefully denounced [Governor] Hochul’s housing plan,” the New York Housing Compact, “saying it would ‘effectively obliterate the community structure and identity that is fundamental to creating and protecting the unique character of our town, its hamlets and villages.” Exhibit II (The Examiner News Article) at 2.

**X. Present-day socioeconomic disparities in Mount Pleasant.**

230. Latinos in Mount Pleasant as a group experience worse outcomes in education, employment, and income as compared to non-Hispanic whites. Ex. H (First Velez Report) at 10; Ex. E (First Sandoval-Strausz Report) at 28-30.

231. According to five-year estimates from the American Community Census for the years 2018-2022:

- a. 14.2 percent of Hispanic residents of Mount Pleasant lived in poverty as compared to 4.2 percent of non-Hispanic white residents.
- b. The median household income for Hispanic residents of Mount Pleasant was \$81,597 as compared to \$153,611 for non-Hispanic white residents.
- c. 27 percent of Hispanic residents of Mount Pleasant lived in owner-occupied housing units as compared to 83 percent of non-Hispanic white residents.
- d. 57.7 percent of Hispanic residents of Mount Pleasant had attained a high school degree or higher level of education as compared to 95.7 percent of non-Hispanic white residents.
- e. 18.5 percent of Hispanic residents of Mount Pleasant had attained a bachelor's degree or higher level of education as compared to 62.9 percent of non-Hispanic white residents.
- f. 9.2 percent of Hispanic residents of Mount Pleasant were unemployed as compared to 5.3 percent of non-Hispanic white residents.
- g. 17.8 percent of Hispanic residents of Mount Pleasant were receiving food stamps as compared to 4.0 percent of non-Hispanic white residents.

Ex. H (First Velez Report) at 10.

232. According to American Community Survey data for the year 2022:
- a. 7.3 percent of Latino men and 7.5 percent of Latina women in Mount Pleasant were employed in “Management, Business, Science, and Arts Occupations,” as compared to 31.1 percent of non-Hispanic white men and 32.1 percent of non-Hispanic white women.
  - b. 8.3 percent of Hispanic residents of Mount Pleasant between the ages of 19 and 64 lacked health insurance coverage as compared to less than 1 percent of non-Hispanic white residents.
  - c. 17.2 percent of Hispanic residents of Mount Pleasant lived in overcrowded households as compared to less than 1 percent of non-Hispanic white residents.

Ex. E (First Sandoval-Strausz Report) at 28-30.

233. Current disparities in homeownership between Latinos and non-Hispanic whites in Mount Pleasant result from past discrimination against Latinos, including their exclusion from the housing market, and ongoing discrimination in areas like education and employment. Ex. E (First Sandoval-Strausz Report) at 29.

234. In school year 2022-23, as reflected in data reported by the New York State Education Department:

- a. The high school serving residents of Sleepy Hollow – Sleepy Hollow High School – had the highest percentage of Latino students and lowest percentage of non-Hispanic white students among all schools in Mount Pleasant.
- b. Approximately 54 percent of students at Sleepy Hollow High School were eligible for free and reduced-price lunch, as compared to 25 percent or less of students at Westlake and Pleasantville High Schools.



- c. Sleepy Hollow High School had the highest student-to-teacher ratio of all Mount Pleasant high schools at 12.5:1, whereas the Town's other three high schools had student-to-teacher ratios between 9.9:1 and 10.84:1.

Ex. E (First Sandoval-Strausz Report) at 28.

235. Socioeconomic disparities between Hispanic and non-Hispanic white residents in Mount Pleasant contribute to disparate educational outcomes because white families have resources to provide their children with additional resources like tutors. Ex. P (Michael Deposition) at 88:6-15.

236. Hispanic individuals comprise approximately 24 percent of the adult population of Westchester County but 39 percent of all arrests, 38 percent of all felony arrests, and 31 percent of all prison sentences. Ex. W (Sialiano Deposition) at 69:2-24, 70:14-25; Exhibit JJ (NYS Division of Criminal Justice Services Report) at 14.

237. Nationally, Latinos are severely underrepresented and non-Hispanic whites are substantially overrepresented among donors to the Democratic and Republican parties. Latinos comprise roughly 22 percent of the nation's voting-eligible population but among large political donors, 3.6 percent are Hispanic and 89.6 percent are non-Hispanic white; among small donors, 7.1 percent are Hispanic and 82.4 percent are non-Hispanic white. Ex. E (First Sandoval-Strausz Report) at 23.

238. Political donations are widely acknowledged as an important means for the electorate to influence candidates and elected officials. Ex. E (First Sandoval-Strausz Report) at 24.

239. In New York and at the national level, Latinos consistently vote at lower rates than other populations, especially non-Hispanic whites. In 2022, Latinos comprised about 17.3

percent of the total U.S. population and 13.4 percent of the electorate, but only 9.7 of actual voters. Only 37.9 percent of Hispanics voted in 2022 as compared to 57.6 percent of non-Hispanic whites. Ex. E (First Sandoval-Strausz Report) at 25.

240. In Mount Pleasant, Hispanics typically comprise between 6.9 and 8.5 percent of voters (as compared to around 19 percent of the Town's total, and 13.8 percent of the Town's citizen voting age, population), while white voters typically comprise more than 80 percent of voters (as compared to 69 percent of the Town's total, and 74.7 percent of the Town's citizen voting age, population). Ex. I (Lewis Report) at 8; Ex. C (Handley Report at 2); Ex. M (Second DeFord Report) at 5.

#### **XI. The Town's responsiveness to the needs of the Hispanic community.**

241. The Town and individual Board members are aware that Mount Pleasant's Hispanic population has grown over the past two decades. Ex. R (Town Deposition) at 41:3-9; Ex. V (Rogers-Smalley Deposition) at 19:2-7; Ex. W (Sialiano Deposition) at 21:25-22:6.

242. The Town is aware that its Hispanic population is geographically concentrated in Sleepy Hollow. Ex. R (Town Deposition) at 41:13-18.

243. The Town and individual Board members are unaware of what percentage of the Town population is Hispanic. Ex. R (Town Deposition) at 41:10-12; Ex. T (Saracino Deposition) at 28:14-29:2; Ex. U (Zaino Deposition) at 20:14-16; Ex. V (Rogers-Smalley Deposition) at 19:9-11.

244. The Town and individual Board members are unaware of any residents who could be characterized as leaders in the Latino community. Ex. R (Town Deposition) at 42:13-16; Ex. T (Saracino Deposition) at 29:3-11; Ex. U (Zaino Deposition) at 20:25-21:8; Ex. V (Rogers-Smalley Deposition) at 19:16-20:3; Ex. W (Sialiano Deposition) at 22:12-23:7.

245. The Hispanic community in Westchester County has numerous particularized needs in areas including housing, education, health care, and mental health. Ex. N (Serratto Deposition) at 125:18-22.

246. Prior to this lawsuit, the Town was unaware of any socioeconomic disparities between Hispanic and non-Hispanic white residents of Mount Pleasant, including significant disparities in each community's respective poverty rate, household income, homeownership rate, educational attainment, and usage of food stamps. Ex. R (Town Deposition) at 56:25-58:4; 61:08-13; 62:21-63:4; 63:24-64:7; 65:7-17; 67:7-12.

247. The Town believes it has no influence over socioeconomic disparities between its Hispanic and non-Hispanic residents. Ex. R (Town Deposition) at 59:3-60:7, 63:8-9.

248. The Town has taken no steps to address socioeconomic disparities between Hispanic and non-Hispanic residents of Mount Pleasant. Ex. R (Town Deposition) at 60:8-19, 67:22-25; Ex. T (Saracino Deposition) at 159:2-9; Ex. U (Zaino Deposition) at 95:09-96:7; Ex. W (Sialiano Deposition) at 49:19-50:4; Ex. A (Answers to Interrogatories), Interrogatory 7.

249. The Town believes there is nothing it can do to address socioeconomic disparities between Hispanic and non-Hispanic white residents and has no plans to do so in the future. Ex. R (Town Deposition) at 64:15-18, 79:6-23, 80:23-81:25, 82:22-83:16, 83:23-84:15, 84:22-85:12, 85:13-87:2.

250. The Town believes that families have the sole responsibility for addressing disparities in educational attainment and that there is no role for government. Ex. R (Town Deposition) at 66:2-8.

251. The Town has taken no steps to encourage greater participation by Hispanic residents in the political processes. Ex. R (Town Deposition) at 78:15-23.

252. Board members are aware that the Town Board could take actions that would benefit the Town's Hispanic community. Ex. V (Rogers-Smalley Deposition) at 107:5-21; Ex. W (Sialiano Deposition) at 137:3-21.

253. Addressing socioeconomic disparities between Hispanic and non-Hispanic white residents of the Town is not one of the goals Board members have set for themselves in the coming years. Ex. S (Fulgenzi Deposition) at 89:5-8; Ex. U (Zaino Deposition) at 99:5-23; Ex. V (Rogers-Smalley Deposition) at 48:23-49:6; Ex. W (Sialiano Deposition) at 53:17-54:12

254. In previous elections, eligible Hispanic voters have not voted in Town elections because the Town did not conduct outreach to the Hispanic community to share information about where and when to vote. Ex. Q (Siguenza Deposition) at 86:8-21; Ex. P (Michael Deposition) at 86:14-25.

255. Eligible Hispanic voters are more likely to vote in national elections because more Spanish-language information about those elections is made available to the community. Ex. Q (Siguenza Deposition) at 88:16-89:6.

256. Plaintiff Siguenza felt "silenced" and "marginalized" as a Latino person living in Mount Pleasant. Ex. Q (Siguenza Deposition) at 31:18-25. She did not bring issues to the attention of the Town Board because she "didn't have much hope of being heard . . . so I kept quiet." Ex. Q (Siguenza Deposition) at 32:16-24.

257. Plaintiff Serratto did not bring issues to the attention of the Town Board because he felt that as a Hispanic person living in Mount Pleasant, "you don't think anything you say . . . is going to affect them." Ex. N (Serratto Deposition) at 77:6-24.

258. The Town was aware of concerns that it failed to inform residents of Sleepy Hollow about developments along Pocantico Lake that would potentially increase flooding and

downstream pollution into Sleepy Hollow, and concerns that the Town failed to consider the potential impacts of these developments on Sleepy Hollow. Ex. R (Town Deposition) at 98:10-99:10; Ex. N (Serratto Deposition) at 313:2-12.

259. The Town dismissed these concerns as “a false complaint” and took no steps to address them. Ex. R (Town Deposition) at 99:11-100:10.

260. Saracino believes that obtaining firsthand knowledge about the experiences of other groups of people is important to understanding the issues faced by members of minority communities. Ex. T (Saracino Deposition) at 150:10-13.

261. Fulgenzi believes that the Town Board benefits when its members have personal experiences and relationships with various constituencies within the Town. Ex. S (Fulgenzi Deposition) at 104:8-23.

262. Zaino recognizes that the Town Board must “meet the needs of all of our residents, all 45,000 of them.” Ex. U (Zaino Deposition) at 202:7-13.

263. Supervisor Fulgenzi acknowledges that creating materials in Spanish may be helpful when conducting outreach to Spanish-speaking residents. Ex. S (Fulgenzi Deposition) at 64:21-65:4.

264. Fulgenzi believes that there is no issue with Hispanic representation in Mount Pleasant because there are Hispanic members of the Board for the Village of Sleepy Hollow. Ex. S (Fulgenzi Deposition) at 140:4-10.

265. Fulgenzi believes that plaintiffs’ efforts to obtain adequate representation for their community “is a way to eliminate Republicans from the Town of Mount Pleasant.” Ex. S (Fulgenzi Deposition) at 140:11-19, 147:13-15.

266. Zaino believes that “it’s important to tailor communication for all of [the Town’s] residents” so that “people know what is going on.” Ex. U (Zaino Deposition) at 62:19-63:7.

267. Zaino does not know whether the Town provides communications in Spanish and does not believe doing so would be helpful. Ex. U (Zaino Deposition) at 63:12-18.

268. In 2017, Rob Astorino, then Westchester County’s Executive, vetoed the county’s Immigrant Protection Act. Astorino was criticized for this by immigrant and Latino advocates since the law was widely recognized as being of particular interest to Hispanic residents of Westchester County, who were particularly likely to be discriminated against. Ex. E (First Sandoval-Strausz Report) at 39.

269. The Town has exclusively hosted Mount Pleasant Day, a town-wide festival, in areas like Thornwood and Hawthorne which are home to few Hispanic residents, but never in Sleepy Hollow. Thus, Hispanic businesses have not benefitted economically from the Mount Pleasant Day festivities in the way that businesses in predominantly white communities have. Ex. E (First Sandoval-Strausz Report) at 40.

270. During the 2023 Town elections, the Mount Pleasant Republican Committee shared a post in Spanish identifying early voting times on its own Facebook page and on the pages of its approved slate of candidates. Ex. S (Fulgenzi Deposition) at 63:25-64:10, 65:15-16; Exhibit KK (Republican Committee Spanish Language Facebook Post).

## **XII. The Town’s responsiveness to other communities.**

271. The Town primarily obtains information from the public by receiving phone calls from residents who call into the Town Supervisor’s office. Ex. R (Town Deposition) at 33:16-34:9.

272. Board members primarily receive information from citizens who attend public meetings or who approach them at grocery stores or other locations near where they live. Ex. U (Zaino Deposition) at 100:5-16; Ex. V (Rogers-Smalley Deposition) at 60:12-63:18; Ex. T (Saracino Deposition) at 82:12-25.

273. One of the goals Zaino articulated during her candidacy was partnering with developers to develop housing to “meet the needs of our senior residents who have limited options when looking to downsize, but want to stay in the town that they love.” Ex. U (Zaino Deposition) at 58:21-59-9.

274. The Town Board is responsible for reviewing proposed development projects. Ex. V (Rogers-Smalley Deposition) at 13:7-9.

275. The Town Board has significant leverage in negotiations with developers because developers needed Town approval for their proposals. Ex. S (Fulgenzi Deposition) at 102:15-20.

276. As a prerequisite to approving a proposal to build in Mount Pleasant, the Town Board required developers to agree to implement a 55-year-old age requirement for residents of newly constructed townhomes, revising an initial plan that would have allowed for the construction of 73 single-family homes without any age restrictions. Ex. S (Fulgenzi Deposition) at 100:23-101:18; Ex. LL (Press Release re: Age-Restricted Townhomes).

277. The developers implemented this change in response to the feedback they received from the Town Board. Ex. U (Zaino Deposition) at 55:15-25.

278. The Town’s feedback was responsive to the concerns of senior residents of Mount Pleasant who wanted more housing and to the concerns of families with children who were worried about overcrowding in local schools. Ex. S (Fulgenzi Deposition) at 101:19-102:14.

279. Individual Board members and Town employees can propose items to be placed on the agenda for Town Board meetings. Ex. S (Fulgenzi Deposition) at 105:5-106:16; Ex. U (Zaino Deposition) at 123:12-19; Ex. V (Rogers-Smalley Deposition) at 67:19-22, 68:22-69:6; Ex. W (Sialiano Deposition) at 81:2-6, 82:7-11.

280. The Town Board and Town Supervisor determine whether to place a proposed item on the agenda for Town meetings. Ex. V (Rogers-Smalley Deposition) at 70:13-16.

281. Members of the public cannot place items on the agenda for Town Board meetings. Ex. U (Zaino Deposition) at 126:13-18.

### **XIII. The emergency order.**

282. On May 26, 2023, Town Supervisor Fulgenzi issued an order declaring a state of emergency (the “emergency order”) in the Town in response to a reported influx of migrants into New York State. The state of emergency has remained in effect continuously since it was implemented. Ex. R (Town Deposition) at 203:13-22.

283. The emergency order identified numerous circumstances which allegedly required the Town to declare a state of emergency, including New York City’s decision to declare itself a “sanctuary city” and the arrival of thousands of migrant and asylum seekers to New York City. Exhibit MM (Declaration of State of Emergency) at 1.

284. According to the order, “[New York City] has attempted to alleviate the problem it has created for itself by support for sanctuary city policies and the open border immigration policies of the Federal Government by shirking its housing responsibility and sending asylum seekers to the neighboring, County of Rockland.” Ex. MM (Emergency Order) at 1.



285. Pursuant to the Town Supervisor's emergency authority under NYS Executive Law § 24, the emergency order makes various acts punishable by civil penalties up to \$2,000 per violation. Ex. MM (Emergency Order) at 3.

286. As provided in the emergency order:

- a. "No person, business, entity, or municipality may make contracts with persons, businesses, or entities doing business within the Town to transport migrants or asylum seekers to locations in the Town, or to house persons at locations in the Town for any length of time without the express written permission of the Town Supervisor."
- b. "No hotel, motel, school, commercially zoned property, or owner of a multiple dwelling or any other building in the Town, regardless of zoning classification, is permitted to contract or otherwise engage in business with any other municipality other than the Town of Mount Pleasant . . . for the purpose of providing housing or accommodations for migrants or asylum seekers without a license granted by the Town."
- c. "In addition to such other powers or duties the Town Police Department may consider in the exercise of the police officer's duties with respect to this Emergency Order, the Police Department is authorized and directed by this order to make limited stops to notify persons suspected of transporting migrants or asylum seekers into the Town in violation of the restrictions and regulations of this Emergency Order, and to similarly, notify the owners and operators of facilities suspected of housing any migrants or asylum seekers, or seeking or entering agreements with external municipalities, without the license required by this Emergency Order."
- d. "[The Town Supervisor] direct[s] that all hotels, motels, any facilities allowing short-term rentals, any facility including schools and/or residential care facilities (or similar facilities) in the Town, do not accept said migrants and/or asylum seekers for housing in what would effectively be homeless shelters within the Town of Mt. Pleasant absent a proper shared services agreement between New York City and the Town of Mt. Pleasant to provide said services."

Ex. MM (Emergency Order) at 3-7.

287. A few days before he issued the emergency order, Supervisor Fulgenzi sent an email to the Town Board stating:

There has always been a right way to enter America, the way my grandparents came here. . . If they truly wanted these migrants to succeed they would continue the way it worked in the past. . . . We have seniors and veterans that fought for our country with nothing, just getting by after investing and supporting our country all their lives but an individual that enters this country illegally gets all the benefits, something is seriously wrong with this picture. Its [sic] about time we expose them for what they really are.

Exhibit NN (Email to Town Board re: Emergency Order) (TMP0001152).

288. Fulgenzi issued the emergency order based on his concern that relocating migrants into the Town would burden Town services and lead to increased crime. Ex. R (Town Deposition) at 204:18-208:18.

289. New York City was not sending migrants to Mount Pleasant at the time the emergency order was issued. Ex. E (First Sandoval-Strausz Report) at 35.

290. One reason Fulgenzi issued the emergency order was that the Town believed that migrant children might be placed at the Cottage School, a facility for troubled children operated by the Jewish Child Care Association (“JCCA”) in Pleasantville. Ex. R (Town Deposition) at 227:10-231:4.

291. The Town intends to penalize JCCA under the emergency order if it operates a shelter for migrant children without first receiving permission from the Town. Ex. R (Town Deposition) at 231:16-232:11.

292. The JCCA subsequently sued Town Supervisor Fulgenzi, alleging that his efforts to prevent the school from caring for migrant children were motivated by racial animus. Ex. G (Second Sandoval-Strausz Report) at 19.

293. The Town did not solicit input from residents of Sleepy Hollow prior to issuing the emergency order. Ex. R (Town Deposition) at 216:4-7.

294. The Town did not discuss the emergency order with any member of Sleepy Hollow's village government prior to issuing the emergency order. Ex. R (Town Deposition) at 212:15-213:15.

295. The Town did not solicit input from members of Mount Pleasant's Latino community or from any organizations dedicated to serving the Latino community prior to issuing the emergency order. Ex. R (Town Deposition) at 209:6-25; 216:8-21.

296. The Town relied on input Supervisor Fulgenzi received from residents who came to his office at Town Hall or who approached him while he was doing errands near his home in Thornwood. Ex. R (Town Deposition) at 208:3-14.

297. Saracino posted a message on Facebook in support of the emergency declaration, stating "[o]ur small town of Mount Pleasant cannot handle a sudden influx of asylum seekers." Ex. T (Saracino Deposition) at 110:10-11:2; Exhibit OO (Saracino Facebook Post re: Emergency Order).

298. Supervisor Fulgenzi has extended the emergency order eleven times based on his belief that problems at the United States' southern border had not yet been resolved. Ex. R (Town Deposition) at 222:3-16.

299. The Town did not conduct any outreach to its Hispanic community prior to extending the state of emergency. Ex. R (Town Deposition) at 226:13-24; Ex. U (Zaino Deposition) at 121:19-24.

300. The Town did not conduct any outreach to residents of Sleepy Hollow prior to extending the state of emergency. Ex. R (Town Deposition) at 227:6-9.

301. Supervisor Fulgenzi intends to continue extending the emergency order until the Town is “comfortable in knowing that the security, the border situation, was more secure.” Ex. R (Town Deposition) at 231:5-15.

302. Fulgenzi would consider terminating the emergency order if the federal government implemented immigration policies to prevent “people with medical issues” or “gang related issues” from entering the United States. Ex. R (Town Deposition) at 234:21-235:6.

303. Fulgenzi would consider terminating the emergency order if the federal government changed immigration policies to require immigrants entering the country today to enter the “way [his] grandparents and relatives came” to the United States in the early twentieth century. Ex. R (Town Deposition) at 234:19-235:18.

304. The Town is aware that some residents believe the emergency order is racist towards the Hispanic community. Ex. R (Town Deposition) at 220:5-9.

305. One resident of Pleasantville emailed Supervisor Fulgenzi to express his opposition to the emergency order, stating that “our common roots are as immigrants and my expectation is that the town will work with [New York City] or other municipalities to help those seeking a better life for their families in our great country (and our great town).” Exhibit PP (Email from Community Member re: Emergency Order) (TMP0001078).

306. Plaintiff Siguenza believes the emergency order is racist because of its focus on the “burdens” caused by migrants, which implies that the Latino community “take[]s up resources and that we’re not welcome. . . . [I]t was extremely dehumanizing of us as a community and what we’re capable of doing and what we’re capable of becoming.” Ex. Q (Siguenza Deposition) at 50:13-22.

307. Plaintiff Michael believes that “the state of emergency is a definite reflection of how [the Town Board] feel[s] about minorities.” Ex. P (Michael Deposition) at 47:3-6.

308. The Town Board unanimously supports maintaining the emergency order. Ex. R (Town Deposition) at 210:18-211:3; Ex. T (Saracino Deposition) at 102:6-8; Ex. U (Zaino Deposition) at 77:11-18; Ex. V (Rogers-Smalley Deposition) at 104:10-105:3.

309. The Town ordered a local immigration attorney, Frances Sorrentino, to stop meeting with clients in her home after residents complained about the presence of mostly West African asylum seekers in their neighborhood. The Town claimed that Sorrentino could not operate a business at the address because she did not own it, even though she had just recently inherited the home from her father, who had operated his law firm from the home for decades. Ex. G (Second Sandoval-Strausz Report) at 19.

#### **XIV. The IDA**

310. The Mount Pleasant Industrial Development Agency (the “IDA”) is an independent agency that assists with development projects in the Town. Ex. R (Town Deposition) at 69:16-70:4; 97:6-12.

311. The IDA seeks to encourage developers to initiate projects in the Town by offering financial incentives such as sales and mortgage tax exemptions, which help reduce the costs of construction. Ex. R (Town Deposition) at 71:4-13.

312. To obtain benefits from the IDA, a project sponsor fills out a form which is reviewed by the IDA Board for approval. Ex. R (Town Deposition) at 72:4-9.

313. The Town believes that the IDA benefits its Hispanic community because development projects create construction and service jobs. Ex. R (Town Deposition) at 76:25-77:15; Ex. A (Answers to Interrogatories), Interrogatory No. 7.

314. The IDA has never approved a project based on its assessment that the project would benefit the Hispanic community of Mount Pleasant. Ex. R (Town Deposition) at 73:4-7.

315. Neither the IDA nor the Town tracks whether or how IDA-approved development projects impact the Town's Hispanic community. Ex. R (Town Deposition) at 74:16-19; Ex. A (Answers to Interrogatories), Interrogatory No. 7.

316. Neither the IDA nor the Town keeps any records that would indicate whether or how IDA-approved development projects impact members of any minority community in Mount Pleasant. Ex. R (Town Deposition) at 74:16-19; Ex. A (Answers to Interrogatories), Interrogatory No. 7; Exhibit QQ (Email from Town Attorney re: MPIDA) at 1.

317. The sole project approved by the IDA which the Town identified as benefitting its Hispanic community was the approval of a large development on a property owned by General Motors in Sleepy Hollow. Ex. R (Town Deposition) at 74:20-75:22.

318. The former mayor of Sleepy Hollow asserted that the Town did not consult with his government before deciding to keep the General Motors property off the Town's tax rolls, a decision that would have deprived the village of approximately \$10 million per year in tax revenue. Ex. R (Town Deposition) at 91:25-93:15.

319. The former mayor believes that "[i]f someone from Sleepy Hollow had been on th[e] [Town] Board, that never would have happened, something else would have been worked out, because that person, Republican or Democrat, would have said, woah, that's not good for my Village." Ex. R (Town Deposition) 93:2-9.

320. The Town believes that the IDA's approval of large development projects like the General Motors plant benefits the Hispanic community because "Hispanics . . . have, uhm, been very good in the construction business." Ex. R (Town Deposition) at 75:23-75:8.

321. The Town believes that the IDA's approval of large development projects like the General Motors plant benefits the Hispanic community because "when the buildings are completed, there's other jobs for maintenance of the buildings, which could be created." Ex. R (Town Deposition) at 75:23-76:5.

322. Since 2022, New York law has expressly required the collection of "aggregated data on the utilization and participation of minority and women-owned business enterprises[ and] the employment of minorities and women in construction-related jobs on such projects" for projects above \$5 million and receiving at least 30 percent of the total cost from public sources, including IDAs. N.Y. Lab. Law § 224-a(10)(b).

323. The IDA application for Westchester County has multiple questions which assess whether an applicant's project will benefit minority-owned businesses, including whether the applicant "plan[s] to make a minimum dollar commitment of purchases from New York State or Westchester certified [minority or women-owned business enterprises] (Y/N- if Y, \$ amount)? What efforts will Applicant take to provide opportunities for [minority or women-owned businesses] to participate in Project-related contracts?" Exhibit UU (County of Westchester Industrial Development Agency: Project Application for Financial Assistance).

324. The MPIDA application does not contain any questions relating to whether an applicant's project will benefit minority-owned businesses. Exhibit VV (Application to MPIDA for Tax Exempt Bond Financing and/or Straight Lease Transaction and Fee Schedule).

## **XV. The Master Plan**

325. In 2021, the Town Supervisor and Town Board began the process of creating a development master plan to "take stock of where the Town is today and how it got there, assess [the Town's] strengths and weaknesses, and establish a durable vision for the future that

reflects the goals, aspirations, and values of the people of Mount Pleasant.” Ex. R (Town Deposition) at 102:25-104:5; Exhibit WW (Town of Mount Pleasant Comprehensive Master Plan) at 1-1.

326. The Town Board was responsible for developing the Master Plan. Ex. S (Fulgenzi Deposition) at 87:15-17; Ex. U (Zaino Deposition) at 98:8-15; Ex. V (Rogers-Smalley Deposition) at 63:24-64:8.

327. The Town conducted a public engagement process to solicit opinions from residents. Ex. R (Town Deposition) at 134:25-135:8.

328. The Town printed and distributed flyers with information about this public engagement process in English, but not in Spanish. Ex. R (Town Deposition) at 135:20-136:4.

329. The Town did not provide Spanish-language translation at public events relating to the Master Plan, which were hosted at the Town community center in Thornwood. Ex. R (Town Deposition) at 139:6-17.

330. The Town did not conduct any outreach to its Hispanic community regarding the Master Plan. Ex. R (Town Deposition) at 137:24-138:5.

331. The Town did not distribute flyers about the Master Plan in Sleepy Hollow because, in the Town’s view, the Master Plan “would have no effect on” Sleepy Hollow residents. Ex. R (Town Deposition) at 136:22-25.

332. The Master Plan states that “the Town’s diversity is in many ways its strength.” Ex. R (Town Deposition) at 105:2-12; Ex. WW (Master Plan) at 3-1.

333. The Master Plan states that “as the Town moves into the future, income disparity, housing, and social equity are issues all residents of the Town must address.” Ex. R (Town Deposition) at 110:7-15; Ex. WW (Master Plan) at 6-15.



334. The Town's choice to develop a Master Plan reflects its recognition that its government has a "responsibility" to address issues like income disparity, housing, and the present lack of social equity. Ex. R (Town Deposition) at 111:7-13.

335. The Town has the capacity to improve housing equity by taking steps to increase the stock of affordable rental homes, for example by implementing zoning adjustments that make it easier to develop multi-family housing. Ex. R (Town Deposition) at 112:15-113:25; Ex. V (Rogers-Smalley Deposition) at 64:9-20.

336. Board members can also influence the size and nature of development projects by giving feedback to developers during working sessions. Ex. U (Zaino Deposition) at 54:3-16.

337. Besides approving the age-restricted townhome development, the Town has done nothing to encourage the development of affordable housing. Ex. R (Town Deposition) at 126:7-10, 132:8-11; Ex. U (Zaino Deposition) at 75:10-22; Ex. V (Rogers-Smalley Deposition) at 66:3-9.

338. The Master Plan identifies various steps for achieving goals identified in the plan, including its goal of "accommod[ating] the Town's evolving ethnic diversity through physical and programmatic adjustments." Ex. R (Town Deposition) at 116:20-117:07; Ex. WW (Master Plan) at 6-15.

339. The Town believes that its recreation department is primarily responsible for making the changes necessary to achieve this goal. Ex. R (Town Deposition) at 118:5-11.

340. One strategy identified by the Master Plan in relation to this goal is to "review recreational facilities of programs and other municipal programs to accommodate the Town's increasing cultural and ethnic diversity." Ex. R (Town Deposition) at 118:21-119:2; Ex. WW (Master Plan) at 6-26.

341. The Town does not know whether the recreation department has conducted any such review. Ex. R (Town Deposition) at 119:3-7.

342. The Town does not know whether the recreation department employs any individuals who speak Spanish in positions responsible for working to accommodate the needs of community members. Ex. R (Town Deposition) at 119:20-120:19.

343. The Master Plan contains numerous goals specifically addressed to the particularized needs of the Town's growing senior population, as well as its population of veterans and individuals with disabilities, but none addressed to the particularized needs of its growing Hispanic population. Ex. R (Town Deposition) at 124:12-24; Ex. WW (Master Plan) at 7-2, 7-28.

#### **XVI. Racist appeals by elected officials and candidates.**

344. While opposing immigration into the United States is not inherently racist, politicians and elected officials nationwide have utilized coded anti-Hispanic racial appeals that rely on what anthropologist Leo Chávez calls the "Latino threat narrative," which "posits that Latinos are not like previous immigrant groups" because they are "unwilling or incapable of integrating, of becoming part of the national community. Rather, they are part of an invading force from south of the border that is bent on reconquering land that was formally theirs (the U.S. Southwest) and destroying the American way of life." Ex. E (First Sandoval-Strausz Report) at 31.

345. Candidates for public office in Mount Pleasant, Westchester County, and New York State have made or endorsed statements depicting nonwhite immigrants, including Latino immigrants, as threats. Ex. E (First Sandoval-Strausz Report) at 32-34.

346. Supervisor Fulgenzi has shared or posted messages and imagery on Facebook evincing hostility towards non-white immigrants to the United States on numerous occasions. Ex. HH (Record of Public Comments) at 101-109 (TMP0000120-0000128)

347. On March 16, 2012, the profile picture on Supervisor Fulgenzi's public Facebook page was a picture of John Wayne standing in front of the American flag with the caption: "Now why in the HELL do I have to press '1' for English?" Ex. HH (Record of Public Comments) at 102 (TMP0000121); Ex. S (Fulgenzi Deposition) at 121:8-122:7.

348. Fulgenzi shared this image because he "thought it was comical." Ex. S (Fulgenzi Deposition) at 122:20-21.

349. On July 21, 2019, Supervisor Fulgenzi shared an image on his Facebook page of people in a line holding suitcases with the caption: "THEY CAME TO TAKE PART IN THE AMERICAN DREAM. EUROPEAN CHRISTIANS BUILT THIS NATION. THEY DIDN'T COME TO BITCH, COLLECT WELFARE, WAGE JIHAD, AND REPLACE THE AMERICAN CONSTITUTION WITH SHARIA LAW." Ex. HH (Record of Public Comments) at 101 (TMP0000120), Ex. S (Fulgenzi Deposition) at 120:6-8.

350. Fulgenzi shared this image to "show[] how originally immigrants came to our country," such as his own grandparents, in contrast to what he understands to be the process for immigrating to the United States today. Ex. S (Fulgenzi Deposition) at 120:13-20.

351. On August 2, 2019, Fulgenzi posted an image of the World Trade Center on September 11, 2001, with the caption "[e]very time a Moslem stands up in Congress and tells us they will change the Constitution, impeach our President, or vote for Socialism, remember you said you would never forget." Ex. HH (Record of Public Comments) at 102 (TMP0000121).

352. On August 4, 2019, Fulgenzi shared an image on his Facebook page of a bald eagle colored like the American flag with the caption “IF AMERICA IS SO RACIST WHY THE HELL IS THE WHOLE WORLD TRYING TO BREAK IN.” Ex. HH (Record of Public Comments) at 105 (TMP0000124); Ex. S (Fulgenzi Deposition) at 123:8-11.

353. In August 2019, Fulgenzi shared an image on his Facebook page of a painting of the Statue of Liberty with the caption: “Print from 1886 STILL STANDS TRUE TODAY... ‘There is room in America and brotherhood for all who will support our institutions and aid in our development. But those who come to disturb our peace and dethrone our laws are aliens and enemies forever.’” Ex. HH (Record of Public Comments) at 107 (TMP0000126); Ex. S (Fulgenzi Deposition) at 125:13-15.

354. On January 3, 2020, Fulgenzi shared a post on his Facebook page containing an image of Osama Bin Laden with the caption: “18 Years after 9/11: You teach Islam in your public schools, You allow Sharia Law in your cities, You had a president who promoted Islam, You welcome my followers as ‘refugees’, You bow to their demands for you to change, My followers wage Jihad inside America, You elect my followers to your Congress, Democrats defend those who support me, You are banned from ‘offending’ my followers, You are banned from criticizing my ideology. With the help of your Democrat Party, I WON!” Ex. HH (Record of Public Comments) at 103 (TMP0000122).

355. On July 16, 2020, Fulgenzi shared an image on his Facebook page of a sign with the following text: “RESPECT MONTAUK[.] WELCOME[.] You came here from there because you didn’t like there, and now you want to change here to be like there. We are not racist, phobic, or anti whatever-you-are, we simply like here the way it is and most of us actually came here because it is not like there, wherever there was. You are welcome here, but please

stop trying to make here like there. If you want here to be like there you should not have left there to come here, and you are invited to leave here and go back there at your earliest convenience.” Fulgenzi appended a caption at the top of the image stating: “This sign says so much. This sign should be out all around AMERICA. This is so TRUE!!!!” Ex. HH (Record of Public Comments) at 108 (TMP0000127); Ex. S (Fulgenzi Deposition) at 126:11-13.

356. On August 15, 2023, during his reelection campaign, Fulgenzi shared a post with the caption: “CLOSE OUR BORDERS. LET’S SEE HOW MANY SHARES WE CAN GET.” Ex. HH (Record of Public Comments) at 106 (TMP0000125); Ex. S (Fulgenzi Deposition) at 123:23-25.

357. Fulgenzi shared this post to express his belief that immigrants were not coming into the country “through the normal process,” in contrast to how “in the past people used to have to come [to America] through a certain way.” Ex. S (Fulgenzi Deposition) at 124:7-19.

358. Board members are not concerned that Supervisor Fulgenzi has shared posts which could be perceived by community members as hostile to immigrants. Ex. U (Zaino Deposition) at 156:3-21.

359. In advance of the November 2023 Town Elections, the Mount Pleasant Republican Party sent a mailer to prospective voters containing the following message: “Mount Pleasant can’t afford extreme Democrats in charge...FACT: Gov. Hochul attempted to mandate local high-density housing[.] FACT: Unvetted migrants to be sent by Adams to Pleasantville Cottage School.” Exhibit RR (Mount Pleasant Republican Committee Mailer); Ex. S (Fulgenzi Deposition) at 162:11-21.

360. Candidates for Town Board appearing on the Republican Party ballot line reviewed and approved this mailer before it was sent out. Ex. U (Zaino Deposition) at 182:8-20.

361. Around this time, the Mount Pleasant Republican Party shared a post from an account called Mt. Pleasant Moving Forward encouraging voters to vote for candidates appearing on the Republican ballot line. The post contained the following message: “DID YOU KNOW . . . Did you know our opponents want migrant housing in town (not their own though)???? . . . Did you know our opponents called for defunding the police???? . . . Keep Mount Pleasant a great town where quality of life matters.” Exhibit SS (Mount Pleasant Moving Forward Facebook Post); Ex. S (Fulgenzi Deposition) at 163:25-164:7.

362. On September 6, 2023, a rally occurred in front of the JCCA in Pleasantville, which had reportedly agreed to serve as a shelter for migrant children. Ex. S (Fulgenzi Deposition) at 164:4-9; Ex. U (Zaino Deposition) at 192:19-22; Ex. V (Rogers-Smalley Deposition) at 94:15-20.

363. A flyer for the rally stated: “WE NEED YOU To fight the Illegal Alien Invasion . . . Hochul, Adams, Latimer, Schumer, Gillibrand, Cousins & Shimsky ARE PRO ILLEGAL ALIENS . . . IT IS UP TO US TO FIGHT!” Exhibit TT (JCCA Rally Flyer); Ex. S (Fulgenzi Deposition) at 164:4-9; Ex. U (Zaino Deposition) at 192:4-8.

364. During Rob Astorino’s campaign for governor, Astorino appeared on Fox News to comment on footage he obtained of people disembarking from an aircraft. Astorino said that such flights were coming into Westchester County’s airport, claimed that the people disembarking were illegal immigrants, and stated that “[w]e’re giving everything to non-citizens as goodies,” including “dinero.” Ex. E (First Sandoval-Strausz Report) at 32.

365. Astorino also appeared on a January 2022 television broadcast of Tucker Carlson to talk about these flights. Posted alongside a Facebook site screen caption that read “BETRAYING AMERICANS: Exclusive bodycam footage shows illegal immigrants arriving

to Westchester County Airport in the middle of the night to keep flights on ‘down low,’” Carlson asserted that such flights were “changing the population of your country, the one you were born in,” before introducing Astorino, who described the arrival of immigrants crossing “the southern border” as “a betrayal to [sic] the American people.” Ex. E (First Sandoval-Strausz Report) at 33.

366. Astorino lives in Mount Pleasant in the hamlet of Hawthorne. Ex. B (Notice to Admit) at ¶ 110.

367. Mike Lawler is the sitting U.S. Representative for New York’s 17th Congressional District, which encompasses portions of Westchester County, including Mount Pleasant. Ex. B (Notice to Admit) at ¶ 117.

368. Representative Lawler has erroneously characterized asylum-seekers who are lawfully present in the United States awaiting adjudication as illegal immigrants. Ex. E (First Sandoval-Strausz Report) at 37.

369. Representative Lawler circulated a petition claiming that “New York City Mayor Eric Adams just sent HUNDREDS of illegal adult male immigrants into your backyard!” Ex. E (First Sandoval-Strausz Report) at 37.

370. Greg Ball was the New York State Assemblyman for the 99th District from 2007 to 2010. Ex. B (Notice to Admit) at ¶ 111.

371. Representative Ball made opposition to illegal immigration the centerpiece of his political identity and justified his opposition to illegal immigration on the grounds that “heightened local crime” was one effect of employing or housing undocumented immigrants. Ex. E (First Sandoval-Strausz Report) at 34.

372. Legal and undocumented immigrants commit fewer crimes, in both absolute and relative terms, than native-born Americans. Ex. E (First Sandoval-Strausz Report) at 34; Ex. G (Second Sandoval-Strausz Report) at 15.

373. In 2011, Representative Ball opposed a bill to allow undocumented drivers (who were overwhelmingly Latin American migrants) to have official licenses, issuing a press release titled: “No to Proposed Licenses for Illegal Aliens and Terrorists.” Ex. E (First Sandoval-Strausz Report) at 34.

374. The 2024 Budget adopted by the Town of Mount Pleasant shows that the “rate to rate % change” for the whole Town was 22.057% while the “rate to rate % change” for the Town Outside the Villages was only 3.607%. Ex. ZZ (Town of Mount Pleasant Adopted Budget 2024) at 5.

375. The Plaintiffs filed the instant lawsuit on January 29, 2024. Ex. XX, Dkt. 1 (Summons and Verified Complaint).

Dated: White Plains  
August 13, 2024



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