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November 1, 2024

VIA NYSCEF

Hon. Maria S. Vazquez-Doles
Orange County Supreme Court
Orange County Government Center, Courtroom 5
285 Main Street
Goshen, NY 10924

Re: *Oral Clarke et al. v. Town of Newburgh et al.*, Index No. EF002460-2024

Dear Justice Vazquez-Doles:

We represent Plaintiffs in this matter. Per the Court's October 25, 2024 order (Dkt. No. 141), the parties have scheduled a deposition of Dr. Barreto for November 14, 2024. The order permits defendants to supplement their expert reports no later than November 25, 2024. At that point, the case is again trial ready. We write in opposition to the defendants' request for further delay in this matter by supplementing their summary judgment motion and putting the trial off until January of next year. Recognizing the need to accommodate defendants' counsel's trial from December 9, 2024 through December 20, 2024 in *New York Communities for Change et al. v. Nassau County et al.*, Index No. 602316/2024 (Sup. Ct., Nassau Cnty.), we request that the matter be tried from December 2 through 4.

The Court acknowledged in its October 25, 2024 order that the statute requires this matter to be expedited and directed that the "trial will be rescheduled as soon as practicable based on the completion of the remaining expert disclosure." (Dkt. No. 141.) The order said nothing about delaying the trial for further motion practice and there is certainly enough briefing before the Court that the Court can receive the defendants' supplemental expert report into the summary judgment record and decide the motion without further attorney gloss. Meanwhile, defendants had every opportunity to respond to the Barreto addendum and chose not to even though CPLR 3212(b) specifically allows plaintiffs to introduce the addendum as part of its opposition to summary judgment.

As the Court is aware, it is critical that this matter be decided in time for the 2025 election cycle, which will begin in February. If the trial is delayed until January, it will be extraordinarily difficult to achieve that. In those circumstances, even if the Court decides that the plaintiffs are entitled to relief, they will not see it until 2027. And since we were less than a week away from going to trial when the Court allowed the supplemental deposition and submission, there can be no prejudice to either party in scheduling the trial more than a month from now.

Respectfully yours,

Robert A. Spolzino, Esq.